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THE FEDERAL AND STATE CONSTITUTIONS

COLONIAL CHARTERS, AND OTHER ORGANIC LAWS

OF THE

STATES, TERRITORIES, AND COLONIES

NOW OR HERETOFORE FORMING

THE UNITED STATES OF AMERICA

Compiled and Edited
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By

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FLORIDA

TREATY BETWEEN SPAIN AND THE UNITED STATES—1795

[This treaty, which can be found in volume eight of the Statutes at Large, edition of 1848, pages 138–153, provides that: "The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola, or Catahouche, thence along the middle thereof to its junction with the Flint: thence straight to the head of Saint Mary's River, and thence down the middle thereof to the Atlantic Ocean."

It was agreed that a commissioner and a surveyor should be appointed by each of the contracting parties, who should meet at Natchez and proceed to run and mark this boundary; and it was further agreed that the two high contracting parties should, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which formed the boundaries of the two Floridas.]

TREATY WITH SPAIN CEDING FLORIDA—1819 [a]

Treaty of amity, settlement, and limits between the United States of America and His Catholic Majesty.

The United States of America and His Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have

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[a] This treaty was concluded February 22, 1819. The ratifications were exchanged February 22, 1821, and proclaimed February 22, 1821. By the treaty of Saint Ildefonso, made October 1, 1800, Spain had ceded Louisiana to France; and France, by the treaty of Paris, signed April 30, 1803, had ceded it to the United States. Under this treaty the United States claimed the countries between the Iberville and the Perdido. Spain contended that her cession to France comprehended only that territory which, at the time of the cession, was denominated Louisiana, consisting of the island of New Orleans, and the country which had been originally ceded to her by France west of the Mississippi. Congress passed a joint resolution, approved January 15, 1811, declaring that the United States, under the peculiar circumstances of the existing crisis, could not, without serious inquietude, see any part of this disputed territory pass into the hands of any foreign power; and that a due regard to their own safety compelled them to provide, under certain contingencies, for the temporary occupation of the disputed territory; they, at the same time, declaring that the territory should, in their hands, remain subject to future negotiation. An act of Congress, approved on the same day, authorized the President to take possession of and occupy all or any part of the territory lying east of the river Perdido and south of the State of Georgia and the Mississippi Territory, in case an arrangement had been, or should be, made with the local authority of the said territory, for delivering up the possession of the same, or any part thereof, to the United States, or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign government.

determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate, with precision, the limits of their respective bordering territories in North America.

With this intention the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States; and His Catholic Majesty has appointed the Most Excellent Lord Don Luis De Onis, Gonzales, Lopez y Vara, Lord of the Town of Rayaces, Perpetual Regidor of the Corporation of the city of Salamanca, Knight Grand Cross of the Royal American Order of Isabella the Catholic, decorated with the Lys of La Vendée, Knight Pensioner of the Royal and Distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said Royal Order; of the Council of His Catholic Majesty; his Secretary, with Exercise of Decrees, and His Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

Article I

There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens and His Catholic Majesty, his successors and subjects, without exception of persons or places.

Article II

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States, duly authorized to receive them.

Article III

The boundary-line between the two countries, west of the Mississippi, shall begin on the Gulph of Mexico, at the mouth of the river Sabine, in the sea, continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Nachitoches, or Red River; then following the course of the Rio Roxo westward, to the degree of longitude 100 west from London and 23 from Washington; then, crossing the said Red River, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to the South Sea. The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But if the source of the Arkansas River shall be found to fall north

or south of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the South Sea: All the islands in the Sabine, and the said Red and Arkansas Rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say: The United States hereby cede to His Catholic Majesty, and renounce forever, all their rights, claims, and pretensions, to the territories lying west and south of the above-described line; and, in like manner, His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and for himself, his heirs, and successors, renounces all claim to the said territories forever.

Article IV

To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a Commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty at Nachitoches, on the Red River, and proceed to run and mark the said line, from the mouth of the Sabine to the Red River, and from the Red River to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated, and the line of latitude 42, to the South Sea: they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

Article V

The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects, at any time whatever, without being subject, in either case, to duties.

Article VI

The inhabitants of the territories which His Catholic Majesty cedes to the United States, by this treaty, shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

ARTICLE VII

The officers and troops of His Catholic Majesty, in the territories hereby ceded by him to the United States, shall be withdrawn, and possession of the places occupied by them shall be given within six months after the exchange of the ratifications of this treaty, or sooner if possible, by the officers of His Catholic Majesty to the commissioners or officers of the United States duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana.

ARTICLE VIII

All the grants of land made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this treaty; in default of which the said grants shall be null and void. All grants made since the said 24th of January, 1818, when the first proposal, on the part of His Catholic Majesty, for the cession of the Floridas was made, are hereby declared and agreed to be null and void.

ARTICLE IX

The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries which they, themselves, as well as their respective citizens and subjects, may have suffered until the time of signing this treaty.

The renunciation of the United States will extend to all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans in 1802.

4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and in the ports and territories of Spain, or the Spanish colonies.

5. To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States in Spain, since

the date of the convention of 1802, and until the signature of this treaty.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

4. To all claims of Spanish subjects upon the Government of the United States arizing from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.

Finally, to all the claims of subjects of His Catholic Majesty upon the Government of the United States in which the interposition of his Catholic Majesty's Government has been solicited, before the date of this treaty and since the date of the convention of 1802, or which may have been made to the department of foreign affairs of His Majesty, or to his Minister of the United States.

And the high contracting parties, respectively, renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American Army in Florida.

Article X

The convention entered into between the two Governments, on the 11th of August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled.

Article XI

The United States, exonerating Spain from all demands in future, on account of the claims of their citizens to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a commission, to consist of three Commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which commission shall meet at the city of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said Commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and, in case of the death, sickness, or necessary absence of any such Commissioner, his place may be supplied by the appointment, as aforesaid, or by the President of the United States, during the recess of the Senate, of another Commissioner in his stead.

The said Commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of 27th October, 1795; the said documents to be specified, when demanded, at the instance of the said Commissioners.

The payment of such claims as may be admitted and adjusted by the said Commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately at their Treasury, or by the creation of stock, bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said Commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

Article XII

The treaty of limits and navigation, of 1795, remains confirmed in all and each one of its articles excepting the 2, 3, 4, 21, and the second clause of the 22d article, which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the 15th article of the same treaty of friendship, limits, and navigation of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this shall be so understood with respect to those powers who recognize this principle; but if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose government acknowledge this principle, and not of others.

Article XIII

Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant-vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other, shall be arrested and delivered up, at the instance of the consul, who shall prove, nevertheless, that the deserters belonged to the vessels that claimed them, exhibiting the document that is customary in their nation: that is to say, the American Consul in a Spanish port shall exhibit the document known by the name of articles, and the Spanish Consul in American ports the roll of the vessel; and if the name of the deserter or de-

serters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

Article XIV

The United States hereby certify that they have not received any compensation from France for the injuries they suffered from her privateers, Consuls, and tribunals on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same in such manner as she may deem just and proper.

Article XV

The United States, to give to His Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor the commerce of the subjects of His Catholic Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain, or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States. During the said term no other nation shall enjoy the same privileges within the ceded territories. The twelve years shall commence three months after the exchange of the ratifications of this treaty.

Article XVI

The present treaty shall be ratified in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof we, the underwritten Plenipotentiaries of the United States of America and of His Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement, and limits, and have thereunto affixed our seals, respectively.

Done at Washington this twenty-second day of February, one thousand eight hundred and nineteen.

John Quincy Adams. [L. S.]
Luis de Onis. [L. S.]

TEMPORARY GOVERNMENT OF FLORIDA—1819 [a]

[Fifteenth Congress, Second Session]

An Act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to take possession of, and occupy, the territories of East and West Florida, and the appendages and appurtenances thereof; and to remove and transport the officers and soldiers of the king of Spain, being there, to the Havana, agreeably to the stipulations of a treaty between the United States and Spain, executed at Washington, on the twenty-second day of February, in the year one thousand eight hundred and nineteen, providing for the cession of said territories to the United States; and he may, for these purposes, and in order to maintain in said territories the authority of the United States, employ any part of the army and navy of the United States, and the militia of any state or territory which he may deem necessary.

Sec. 2. *And be it further enacted*, That, until the end of the first session of the next Congress, unless provision for the temporary government of said territories be sooner made by Congress, all the military, civil, and judicial, powers, exercised by the officers of the existing government of the same territories, shall be vested in such person and persons, and shall be exercised in such manner, as the President

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[a] For other statutes of an organic nature relating to Florida subsequent to 1819 see the act to protest against occupation of Florida by any other power, joint resolution of January 15, 1811; to authorize the president to occupy Florida, January 15, 1811; to authorize the president to take possession of certain territory, March 3, 1811; to authorize the president to take possession of West Florida, February 12, 1812 (all these resolutions are printed in Statutes at Large III, 471–472, under year 1818); to establish a government in, act of March 3, 1821; to regulate commerce and trade in, March 30, 1822; to relieve the people from certain ordinances, May 7, 1822; to amend act establishing a government, March 3, 1823; to settle claims arising in, March 3, 1823; to consent to an act of Florida levying a poll-tax, April 22, 1824; to reorganize the courts of, May 26, 1824; to settle land claims and provide for the preservation of public archives, March 3, 1825; to reorganize courts and provide for elective legislative council, May 15, 1826; to provide for erection of election districts, April 28, 1828; to establish a southern judicial district, May 23, 1828; to give citizens right to elect officers, and to apportion members of legislative council, January 21, 1829; to erect a town on school lands, March 2, 1829; to authorize governor to appoint to certain vacancies, May 8, 1830; to alter time of holding sessions of legislative council, May 14, 1830; to elect additional members of the legislative council, March 22, 1832; to fix jurisdiction of court of appeals, July 14, 1832; to equalize representation in, June 18, 1834; to increase salaries of judges, June 30, 1834; repeal of Florida act laying tax on slaves of non-residents, June 30, 1834; to regulate sessions of courts, February 25, 1836; to disapprove and annul certain acts of legislature of Florida, July 1, 1836; to confirm a Florida act incorporating a railroad, June 28, 1838; to reorganize the legislative council, establishing two houses called senate and house of representatives, July 7, 1838; to authorize legislature to regulate apportionment of representatives, and to provide for popular election of justices of the peace and militia officers, June 15, 1844; to supplement the act for the admission of Florida and Iowa into the union, March 3, 1845.

of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relative to the collection of revenue, and the importation of persons of colour, shall be extended to the said territories; and the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts, for the collection of the revenue, and, during the recess of Congress, to appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient.

SEC. 3. *And be it further enacted*, That the sum of twenty thousand dollars is hereby appropriated for the purpose of carrying this act into effect, to be paid out of any moneys in the treasury not otherwise appropriated, and to be applied under the direction of the President of the United States.

SEC. 4. *And be it further enacted*, That this act shall take effect, and be in force, whenever the aforesaid treaty, providing for the cession of said territories to the United States, shall have been ratified by the king of Spain, and the ratifications exchanged, and the king of Spain shall be ready to surrender said territory to the United States, according to the provisions of said treaty.

Approved, March 3, 1819.

TERRITORIAL GOVERNMENT OF FLORIDA—1822

[SEVENTEENTH CONGRESS, FIRST SESSION]

An Act for the establishment of a territorial government in Florida [a]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that territory ceded by Spain to the United States, known by the name of East and West Florida, shall constitute a territory of the United States, under the name of the territory of Florida, the government whereof shall be organized and administered as follows:

SEC. 2. *And be it further enacted*, That the executive power shall be vested in a governor, who shall reside in the said territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the militia of the said territory, and be *ex-officio* superintendent of Indian affairs; and shall have power to grant pardons for offences against the said territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; and to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, and which shall be established by law; he shall take care that the laws be faithfully executed.

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[a] This act was amended by acts approved March 23, 1823; May 26, 1824; May 15, 1826; April 28, 1828; January 1, 1829; March 22, 1832; July 14, 1832; and June 18, 1834.

SEC. 3. *And be it further enacted*, That the secretary of the territory shall also be appointed, who shall hold his office during the term of four years, unless sooner removed by the President of the United States; whose duty it shall be, under the direction of the governor, to record and preserve all the papers and proceedings of the executive, and all the acts of the governor and legislative council, and transmit authentic copies of the proceedings of the governor, in his executive department, every six months, to the President of the United States.

SEC. 4. *And be it further enacted*, That, in case of the death, removal, resignation, or necessary absence, of the governor of the said territory, the secretary thereof shall be, and he is hereby, authorized and required to execute all the powers, and perform all the duties, of the governor, during the vacancy occasioned by the removal, resignation, or necessary absence, of the said governor.

SEC. 5. *And be it further enacted*, That the legislative power shall be vested in the governor, and in thirteen of the most fit and discreet persons of the territory, to be called the legislative council, who shall be appointed annually, by the President of the United States, by and with the advice and consent of the Senate, from among the citizens of the United States residing there. The governor, by and with the advice and consent of the said legislative council, or a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the constitution and laws of the United States, or which shall lay any person under restraint, burthen, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not burthened with those of another. The governor shall publish, throughout the said territory, all the laws which shall be made, and shall, on or before the first day of December in each year, report the same to the President of the United States, to be laid before Congress, which, if disapproved by Congress, shall thenceforth be of no force. The governor and legislative council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to lands within said territory: the legislative council shall hold a session once in each year, commencing its first session on the second Monday of June next, at Pensacola, and continue in session not longer than two months; and thereafter on the first Monday in May, in each and every year; but shall not continue longer in session than four weeks; to be held at such place in said territory as the governor and council shall direct. It shall be the duty of the governor to obtain all the information in his power in relation to the customs, habits, and dispositions, of the inhabitants of the said territory, and communicate the same, from time to time, to the President of the United States.

SEC. 6. *And be it further enacted*, That the judicial power shall be vested in two superior courts, and in such inferior courts and justices of the peace, as the legislative council of the territory may, from time to time, establish. There shall be a superior court for that part of the territory known as East Florida, to consist of one judge; he shall hold a court on the first Mondays in January, April, July, and October, in each year, at St. Augustine, and at such other times and places

as the legislative council shall direct. There shall be a superior court for that part of the territory known as West Florida, to consist of one judge: he shall hold a court at Pensacola on the first Mondays in January, April, July, and October, in each year, and at such other times and places as the legislative council shall direct. Within its limits, herein described, each court shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all capital cases, and original jurisdiction in all civil cases of the value of one hundred dollars, arising under, and cognisable by, the laws of the territory, now of force therein, or which may, at any time, be enacted by the legislative council thereof. Each judge shall appoint a clerk for his respective court, who shall reside, respectively, at St. Augustine and Pensacola, and they shall keep the records there. Each clerk shall receive for his services, in all cases arising under the territorial laws, such fees as may be established by the legislative council.

SEC. 7. *And be it further enacted*, That each of said superior courts shall, moreover, have and exercise the same jurisdiction within its limits, in all cases arising under the laws and constitution of the United States, which, by an act to establish the judicial *power* [courts] of the United States, approved the twenty-fourth day of September, one thousand seven hundred and eighty-nine, and "An act in addition to the act, entitled 'An act to establish the judicial courts of the United States,'" approved the second day of March, one thousand seven hundred and ninety-three, was vested in the court of the Kentucky district. And writs of error and appeal from the decisions in the said superior court, authorized by this section of this act, shall be made to the Supreme Court of the United States, in the same cases, and under the same regulations, as from the circuit courts of the United States. The clerks, respectively, shall keep the records at the places where the courts are held, and shall receive, in all cases arising under the laws and constitution of the United States, the same fees which the clerk of the Kentucky district received for similar services, whilst that court exercised the powers of the circuit and district courts. There shall be appointed, in the said territory, two persons learned in the law, to act as attorneys for the United States as well as for the territory; one for that part of the territory known as East Florida, the other for that part of the territory known as West Florida: to each of whom, in addition to his stated fees, shall be paid, annually, two hundred dollars, as a full compensation for all extra services. There shall also be appointed two marshals, one for each of the said superior courts, who shall each perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, to which marshals in other districts are entitled for similar services; and shall, in addition, be paid the sum of two hundred dollars, annually, as a compensation for all extra services.

SEC. 8. *And be it further enacted*, That the governor, secretary, judges of the superior courts, district attorneys, marshals, and all general officers of the militia, shall be appointed by the President of the United States, by and with the advice and consent of the Senate. All judicial officers shall hold their offices for the term of four years, and no longer. The governor, secretary, judges, members of the legislative council, justices of the peace, and all other officers, civil and of the militia, before they enter upon the duties of their respective

offices, shall take an oath or affirmation to support the constitution of the United States, and for the faithful discharge of the duties of their office; the governor, before the President of the United States, or before a judge of the Supreme or district court of the United States, or before such other person as the President of the United States shall authorize to administer the same; the secretary, judges, and members of the legislative council, before the governor, and all other officers, before such persons as the governor shall direct. The governor shall receive an annual salary of two thousand five hundred dollars; the secretary, of one thousand five hundred dollars; and the judges, of one thousand five hundred dollars, each; to be paid quarter yearly out of the treasury of the United States. The members of the legislative council shall receive three dollars each, per day, during their attendance in council, and three dollars for every twenty miles in going to, and returning from any meeting of the legislative council, once in each session, and no more. The members of the legislative council shall be privileged from arrest, except in cases of treason, felony, and breach of the peace, during their going to, attendance at, and returning from, each session of said council.

SEC. 9. *And be it further enacted*, That the following acts, that is to say:

"An act for the punishment of certain crimes against the United States," approved April thirtieth, one thousand seven hunderd and ninety, and all acts in addition or supplementary thereto, which are now in force:

"An act to provide for the punishment of [certain] crimes and offences committed within the Indian boundaries," approved March third, one thousand eight hundred and seventeen:

"An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," approved April twentieth, one thousand eight hundred and eighteen:

"An act for the punishment of [certain] crimes therein specified," approved January thirtieth, one thousand seven hundred and ninety-nine:

"An act respecting fugitives from justice, and persons escaping from the service of their masters," approved twelfth February, one thousand seven hundred and ninety-three:

"An act to prohibit the carrying on the slave trade from the United States to any foreign place or country," approved March twenty-second, one thousand seven hundred and ninety-nine [four:]

"An act in addition to the act entitled 'An act to prohibit the carrying on the slave trade from the United States to any foreign place or country,'" approved May tenth, one thousand eight hundred:

"The act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," approved March second, one thousand eight hundred and seven:

"An act to prevent settlements being made on lands ceded to the United States until authorized by law," approved March third, one thousand eight hundred and seven:

"An act in addition to 'An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States,

from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same.'" approved April twentieth, one thousand eight hundred and eighteen:

"An act in addition to the acts prohibiting the slave trade," approved March third, one thousand eight hundred and nineteen:

"An act to establish the post-office of the United States:"

"An act further to alter and establish certain post-roads, and for the more secure carriage of the mail of the United States:"

"An act for the more general promulgation of the laws of the United States:"

"An act in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States:'"

"An act to provide for the publication of the laws of the United States, and for other purposes:"

"An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose:"

"An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees:"

"An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned:"

"The act supplementary thereto, and for extending the benefits thereof to the arts of designing, engraving, and etching, historical, and other prints:"

"An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in any other State:"

"An act supplementary to the act, entitled 'An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State shall be acknowledged, so as to take effect in any other State:'"

"An act for establishing trading-houses with the Indian tribes," and the several acts continuing the same:

"An act making provision relative to rations for Indians, and their visits to the seat of government."

And the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the fifteenth article of the treaty of the twenty-second February, one thousand eight hundred and nine, in favor of Spanish vessels and their cargoes; and all other public laws of the United States, which are not repugnant to the provisions of this act, shall extend to, and have full force and effect in, the territory aforesaid.

SEC. 10. *And be it further enacted*, That, to the end that the inhabitants may be protected in their liberty, property, and the exercise of their religion, no law shall ever be valid which shall impair, or in any way restrain, the freedom of religious opinions, professions, or worship. They shall be entitled to the benefit of the writ of *habeas corpus*. They shall be bailable in all cases, except for capital offences, where the proof is evident or the presumption great. All fines shall be moderate, and proportioned to the offence; and excessive bail shall not be required, nor cruel nor unusual punishments inflicted. No

ex post facto law, or law impairing the obligation of contracts, shall ever be passed; nor shall private property be taken for public uses without just compensation.

SEC. 11. *And be it further enacted*, That all free male white persons, who are housekeepers, and who shall have resided one year, at least, in the said territory, shall be qualified to act as grand and petit jurors in the courts of the said territory; and they shall, until the legislature thereof shall otherwise direct, be selected in such manner as the judges of the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and to be least burthensome to the inhabitants of the said territory.

SEC. 12. *And be it further enacted*, That it shall not be lawful for any person or persons to import or bring into the said territory, from any port or place without the limits of the United States, or cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves. And every person so offending, and being thereof convicted before any court within the said territory, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of three hundred dollars, one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and every slave so imported or brought shall thereupon become entitled to, and receive, his or her freedom.

SEC. 13. *And be it further enacted*, That the laws in force in the said territory, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed, by the legislature.

SEC. 14. *And be it further enacted*, That the citizens of the said territory shall be entitled to one delegate to Congress, for the said territory, who shall possess the same powers heretofore granted to the delegates from the several territories of the United States. The said delegate shall be elected by such description of persons, at such times, and under such regulations, as the governor and legislative council may, from time to time, ordain and direct.

Approved, March 30, 1822.

ENABLING ACT FOR FLORIDA—1845

[SEVENTEENTH CONGRESS, FIRST SESSION]

An Act for the admission of the States of Iowa and Florida into the Union

Whereas, the people of the Territory of Iowa did, on the seventh day of October, eighteen hundred and forty-four, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government; and whereas, the people of the Territory of Florida did, in like manner, by their delegates, on the eleventh day of January, eighteen hundred and thirty-nine, form for themselves a constitution and State government, both of which said constitutions are republican; and said conventions having asked the admission of their respective Territories into the Union as States, on equal footing with the original States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the States of

Iowa and Florida be, and the same are hereby, declared to be States of the United States of America, and are hereby admitted into the Union on equal footing with the original States in all respects, whatsoever.

SEC. 2. *And be it further enacted*, That the following shall be the boundaries of the said State of Iowa, to wit: Beginning at the mouth of the Des Moines river, at the middle of the Mississippi, thence by the middle of the channel of that river to a parallel of latitude passing through the mouth of the Mankato, or Blue-Earth river; thence west, along the said parallel of latitude, to a point where it is intersected by a meridian line, seventeen degrees and thirty minutes west of the meridian of Washington city; thence due south to the northern boundary line of the State of Missouri; thence eastwardly following that boundary to the point at which the same intersects the Des Moines river, thence by the middle of the channel of that river to the place of beginning.

SEC. 3. *And be it further enacted*, That the said State of Iowa shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State of Iowa, so far as the said rivers shall form a common boundary to said State, and any other State or States now or hereafter to be formed or bounded by the same: Such rivers to be common to both: And that the said river Mississippi, and the navigable waters leading into the same, shall be common highways, and forever free as well to the inhabitants of said State, as to all other citizens of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State of Iowa.

SEC. 4. *And be it further enacted*, That it is made and declared to be a fundamental condition of the admission of said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa shall be assented to by a majority of the qualified electors at their township elections, in the manner and at the time prescribed in the sixth section of the thirteenth article of the constitution adopted at Iowa city the first day of November, anno Domini eighteen hundred and forty-four, or by the legislature of said State. And as soon as such assent shall be given, the President of the United States shall announce the same by proclamation; and therefrom, and without further proceedings on the part of Congress, the admission of the said State of Iowa into the Union, on an equal footing in all respects whatever with the original States, shall be considered as complete.

SEC. 5. *And be it further enacted*, That said State of Florida shall embrace the territories of East and West Florida, which, by the treaty of amity, settlement and limits between the United States and Spain, on the twenty-second day of February, eighteen hundred and nineteen, were ceded to the United States.

SEC. 6. *And be it further enacted*, That until the next census and apportionment shall be made, each of said States of Iowa and Florida shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 7. *And be it further enacted*, That said States of Iowa and Florida are admitted into the Union on the express condition that they shall never interfere with the primary disposal of the public lands lying within them, nor levy any tax on the same whilst remaining the property of the United States: *Provided* That the ordinance

of the convention that formed the constitution of Iowa, and which is appended to the said constitution, shall not be deemed or taken to have any effect or validity, or to be recognized as in any manner obligatory upon the Government of the United States.

Approved, March 3, 1845.

CONSTITUTION OF FLORIDA—1838 [a]

We, the people of the Territory of Florida, by our delegates in convention, assembled at the city of Saint Joseph, on Monday, the 3d day of December, A. D. 1838, and of the Independence of the United States the sixty-third year, having and claiming the right of admission into the Union as one of the United States of America, consistent with the principles of the Federal Constitution, and by virtue of the treaty of amity, settlement, and limits between the United States of America and the King of Spain, ceding the provinces of East and West Florida to the United States, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the pursuit of happiness, do mutually agree, each with the other, to form ourselves into a free and independent State, by the name of the State of Florida.

Article I

DECLARATION OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and established, we declare:

Section 1. That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

Sec. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and, therefore, they have at all times an inalienable and indefeasible right to alter or abolish their form of government in such manner as they may deem expedient.

Sec. 3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship in this State.

Sec. 4. That all elections shall be free and equal, and that no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State.

Sec. 5. That every citizen may freely speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that liberty; and no law shall ever be passed to curtail, abridge, or restrain the liberty of speech or of the press.

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[a] This constitution was framed by a convention which met December 3, 1838, and adjourned January 11, 1839. It was not submitted to the people.

SEC. 6. That the right of trial by jury shall forever remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 8. That no freeman shall be taken, imprisoned, disseized of his freehold, liberties, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

SEC. 9. That all courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

SEC. 10. That in all criminal prosecutions the accused hath a right to be heard, by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or presentment, a speedy and public trial by an impartial jury of the county or district where the offence was committed, and shall not be compelled to give evidence against himself.

SEC. 11. That all persons shall be bailable, by sufficient securities, unless in capital offences, where the proof is evident or the presumption strong; and the privilege of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

SEC. 13. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 14. That private property shall not be taken or applied to public use unless just compensation be made therefor.

SEC. 15. That in all prosecutions and indictments for libel the truth may be given in evidence; and if it shall appear to the jury that the libel is true, and published with good motives, and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law and facts.

SEC. 16. That no person shall be put to answer any criminal charge but by presentment, indictment, or impeachment.

SEC. 17. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared penal or criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* law shall ever be made.

SEC. 19. That no law impairing the obligation of contracts shall ever be passed.

SEC. 20. That the people have a right, in a peaceable manner, to assemble together to consult for the common good, and to apply to

those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

Sec. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

Sec. 22. That no soldier, in time of peace, shall be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Sec. 23. That no standing army shall be kept up without the consent of the legislature; and the military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 24. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

Sec. 25. That no hereditary emoluments, privileges, or honors, shall ever be granted or conferred in this State.

Sec. 26. That frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 27. That, to guard against transgressions upon the rights of the people, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

Article II

DISTRIBUTION OF THE POWERS OF GOVERNMENT

Section 1. The powers of the government of the State of Florida shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

Sec. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances expressly provided in this constitution.

Article III

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled the governor of the State of Florida.

Sec. 2. The governor shall be elected for four years, by the qualified electors, at the time and place where they shall vote for representatives, and shall remain in office until a successor be chosen and qualified; and shall not be eligible to reëlection until the expiration of four years thereafter.

Sec. 3. No person shall be eligible to the office of governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States ten years, or an inhabitant of Florida at the time of the adoption of this constitution, (being a citizen of the United States,) and shall have been a resident of Florida at least five years next preceding the day of election.

Sec. 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker

of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly; and the person having the highest number of votes shall be governor; but if two or more shall be equal, and highest in votes, one of them shall be chosen governor by the joint vote of the two houses; and contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 7. He may require information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that shall have become dangerous from an enemy or from disease; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting designated by this constitution.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, (except of treason and impeachment,) after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law; and in cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of the State, which shall be kept by the governor, and used by him officially, with such device as the governor first elected may direct; and the present seal of the Territory shall be the seal of the State until otherwise directed by the general assembly.

SEC. 13. All commissions shall be in the name and by the authority of the State of Florida, be sealed with the State seal, and signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be a secretary of state appointed by a joint vote of both houses of the general assembly, who shall continue in office during the term of four years; and he shall keep a fair register of the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required of him by law.

SEC. 15. Vacancies that happen in offices, the appointment to which is vested in the general assembly, or given to the governor, with the advice and consent of the senate, shall be filled by the governor dur-

ing the recess of the general assembly, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Every bill, which shall have passed both houses of the general assembly, shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; and if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by a majority of the whole number elected to that house, it shall become a law. But in such cases the votes of both houses shall be by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house, respectively; and if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it; unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, during the term for which the governor was elected: unless the general assembly shall provide by law for the election of a governor to fill such vacancy, or until the governor absent or impeached shall return or be acquitted.

SEC. 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 20. The president of the senate, or speaker of the house of representatives, during the time he administers the government, shall receive the same compensation which the governor would have received.

SEC. 21. The governor shall always reside, during the sessions of the general assembly, at the place where their sessions are held; and, at other times, wherever in their opinion the public good may require.

SEC. 22. No person shall hold the office of governor, and any other office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time, except the president of the senate or the speaker of the house of representatives, when he shall hold the office, as aforesaid.

SEC. 23. A State treasurer, and comptroller of public accounts, shall be elected by joint vote of both houses of the general assembly, at each regular session thereof.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the senate, the other the house of representatives, and both together "the general assembly of the State of Florida;" and the style of the laws shall be, "Be it enacted by the senate and house of representatives of the State of Florida in general assembly convened."

Sec. 2. The members of the house of representatives shall be chosen by the qualified voters, and shall serve for the term of one year, from the day of the commencement of the general election, and no longer; and the sessions of the general assembly shall be annual, and commence on the fourth Monday in November in each year, or at such other time as may be prescribed by law.

Sec. 3. The representatives shall be chosen every year, on the first Monday in the month of October, until otherwise directed by law.

Sec. 4. No person shall be a representative unless he be a white man, a citizen of the United States, and shall have been an inhabitant of the State two years next preceding his election, and the last year thereof a resident of the county for which he shall be chosen, and shall have attained the age of twenty-one years.

Sec. 5. The senators shall be chosen by the qualified electors, for the term of two years, at the same time, in the same manner, and in the same places where they vote for members of the house of representatives; and no man shall be a senator unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district or county for which he shall be chosen, and shall have attained the age of twenty-five years.

Sec. 6. The senators, after their first election, shall be divided by lot into two classes; and the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year; so that one-half thereof, as near as possible, may be chosen forever thereafter, annually, for the term of two years.

Sec. 7. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate a president, and its other officers; and each house shall be judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

Sec. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

Sec. 9. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause.

Sec. 10. Each house, during the session, may punish, by imprisonment, any person not a member for disrespectful or disorderly

behavior in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not extend beyond the end of the session.

Sec. 11. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment; and the yeas and nays of the members of each house shall be taken and entered upon the journals, upon the final passage of every bill, and may, by any two members, be required upon any other question; and any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

Sec. 12. Senators and representatives shall in all cases, except treason, felony, or breach of peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same, allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; and for any speech or debate in either house they shall not be questioned in any other place.

Sec. 13. The general assembly shall make provision by law for filling vacancies that may occur in either house, by the death, resignation, or otherwise, of any of its members.

Sec. 14. The doors of each house shall be open, except on such occasions as, in the opinion of the house, the public safety may imperiously require secrecy.

Sec. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 16. Bills may originate in either house of the general assembly, and all bills passed by one house may be discussed, amended, or rejected by the other; but no bill shall have the force of law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless in cases of urgency four-fifths of the house in which the same shall be depending may deem it expedient to dispense with the rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

Sec. 17. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the representatives were elected when such law passed.

Sec. 18. The number of members of the house of representatives shall never exceed sixty.

Article V

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, courts of chancery, circuit courts, and justices of the peace: *Provided*, The general assembly may also vest such criminal jurisdiction as may be deemed necessary in corporation courts; but such jurisdiction shall not extend to capital offences.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That the said courts shall always have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of all other courts.

SEC. 3. For the term of five years from the election of the judges of the circuit courts, and thereafter until the general assembly shall otherwise provide, the powers of the supreme court shall be vested in, and its duties performed by, the judges of the several circuit courts within this State; and they, or a majority of them, shall hold such sessions of the supreme court, and at such times, as may be directed by law.

SEC. 4. The supreme court, when organized, shall be holden at such times and places as may be provided by law.

SEC. 5. The State shall be divided into at least four convenient circuits, and until other circuits shall be provided for by the general assembly, the arrangement of the circuits shall be the western, middle, eastern, and southern circuits; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he has been appointed, and shall, at stated times, receive for his services a salary of not less than two thousand dollars per annum, which shall not be diminished during the continuance of such judge in office; but the judges shall receive no fees or perquisites of office, nor hold any other office of profit under the State, the United States, or any other power.

SEC. 6. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution.

SEC. 7. A circuit court shall be held in such counties, and at such times and places therein, as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other, and shall do so when directed by law.

SEC. 8. The general assembly shall have power to establish and organize a separate court or courts of original equity jurisdiction; but, until such court or courts shall be established and organized, the circuit courts shall exercise such jurisdiction.

SEC. 9. The general assembly shall provide by law for the appointment, in each county, of an officer to take probate of wills, to grant letters testamentary, of administration, and guardianship; to attend to the settlement of the estates of decedents and of minors, and to discharge the duties usually pertaining to courts of ordinary, subject to the direction and supervision of the courts of chancery, as may be provided by law.

SEC. 10. A competent number of justices of the peace shall be, from time to time, appointed or elected, in and for each county, in such mode and for such term of office as the general assembly may direct, and shall possess such jurisdiction as may be prescribed by law; and, in cases tried before a justice of the peace, the right of

appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 11. Justices of the supreme court, chancellors, and judges of the circuit courts shall be elected by the concurrent vote of a majority of both houses of the general assembly.

SEC. 12. The judges of the circuit courts shall, at the first session of the general assembly to be holden under this constitution, be elected for the term of five years, and shall hold their offices for that term, unless sooner removed under the provisions made in this constitution for the removal of judges by address or impeachment; and at the expiration of five years, the justices of the supreme court and the judges of the circuit courts shall be elected for the term of and during their good behavior; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote for such address shall pass; and in such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

SEC. 13. The clerk of the supreme court and the clerks of the courts of chancery shall be elected by the general assembly; and the clerks of the circuit courts shall be elected by the qualified electors, in such mode as may be prescribed by law.

SEC. 14. The justices of the supreme court, chancellors, and judges of the circuit courts, shall, by virtue of their offices, be conservators of the peace throughout the State, and justices of the peace in their respective counties.

SEC. 15. The style of all process shall be, "The State of Florida;" and all criminal prosecutions shall be carried on in the name of the State of Florida, and all indictments shall conclude, "against the peace and dignity of the same."

SEC. 16. There shall be an attorney-general for the State, who shall reside at the seat of government. It shall be his duty to attend all sessions of the general assembly, and, upon the passage of any act, to draft, and submit to the general assembly, at the same session, all necessary forms of proceedings under such laws, which, when approved, shall be published therewith; and he shall perform such other duties as may be prescribed by law. He shall be elected by joint vote of the two houses of the general assembly, and shall hold his office for four years; but may be removed by the governor, on the address of two-thirds of the two houses of general assembly; and shall receive for his services a compensation to be fixed by law.

SEC. 17. There shall be one solicitor for each circuit, who shall reside therein, to be elected by the joint vote of the general assembly, who shall hold his office for the term of four years, and shall receive for his services a compensation to be fixed by law.

SEC. 18. No justice of the supreme court shall sit as judge, or take part in the appellate court, on the trial or hearing of any case which shall have been decided by him in the court below.

SEC. 19. The general assembly shall have power to establish in each county a board of commissioners for the regulation of the county business therein.

SEC. 20. No duty not judicial shall be imposed by law upon the justices of the supreme court, chancellors, or the judges of the circuit courts of this State.

ARTICLE VI

THE RIGHT OF SUFFRAGE—CIVIL OFFICERS

SECTION 1. Every free white male person of the age of twenty-one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States, and who shall have resided and had his habitation, domicile, home, and place of permanent abode in Florida, for two years next preceding the election at which he shall offer to vote, and who shall have at such time, and for six months immediately preceding said time shall have had, his habitation, domicile, home, and place of permanent abode in the county in which he may offer to vote, and who shall be enrolled in the militia thereof, (unless by law exempted from serving in the militia,) shall be deemed a qualified elector, at all elections under this constitution, and none others except in elections by general ticket in the State or district prescribed by law: in which cases the elector must have been a resident of the State two years next preceding the election, and six months within the election district in which he offers to vote: *Provided*, That no soldier, seaman, or marine, in the regular Army or Navy of the United States, unless he be a qualified elector of the State previous to his enlistment as such soldier, seaman, or marine, in the regular Army or Navy of the United States, or of the revenue service, shall considered a resident of the State, in consequence of being stationed within the same.

SEC. 2. The general assembly shall, at its first session, provide for the registration of all the qualified electors in each county; and thereafter, from time to time, of all who may become such qualified electors.

SEC. 3. No president, director, cashier, or other officer, of any banking company in this State, shall be eligible to the office of governor, senator, or representative to the general assembly of this State, so long as he shall be such president, director, cashier, or other officer, nor until the lapse of twelve months from the time at which he shall have ceased to be such president, director, cashier, or other officer.

SEC. 4. The general assembly shall have power to exclude from every office of honor, trust, or profit, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 5. No person shall be capable of holding or of being elected to any post of honor, profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or shall be knowingly the

bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State.

SEC. 6. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 7. No governor, member of Congress, or of the general assembly of this State, shall receive a fee, be engaged as counsel, agent, or attorney, in any civil case or claim against this State, or to which this State shall be a party, during the time he shall remain in office.

SEC. 8. No governor, justice of the supreme court, chancellor, or judge, in this State, shall be eligible to election or appointment to any other and different station, or office, or post of honor or emolument, under this State, or to the station of Senator or Representative in the Congress of the United States from this State, until one year after he shall have ceased to be such governor, justice, chancellor, or judge.

SEC. 9. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 10. No minister of the gospel shall be eligible to the office of governor, senator, or member of the house of representatives of this State.

SEC. 11. Members of the general assembly, and all officers, civil and military, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I, ——— ———, do swear (or affirm) that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been elected, (or appointed,) and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and of the United States."

SEC. 12. Every person shall be disqualified from serving as governor, senator, representative, or from holding any other office of honor or profit in this State, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

SEC. 13. Laws shall be made by the general assembly to exclude from office, and from suffrage, those who shall have been, or may thereafter be, convicted of bribery, perjury, forgery, or other high crime or misdemeanor; and the privilege of suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practices.

SEC. 14. All civil officers of the State at large shall reside within the State, and all district or county officers within their respective districts or counties, and shall keep their respective offices at such places therein as may be required by law.

SEC. 15. It shall be the duty of the general assembly to regulate by law in what cases and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 16. Returns of elections for members of Congress and the general assembly shall be made to the secretary of state, in manner to be prescribed by law.

SEC. 17. In all elections by the general assembly, the vote shall be *viva voce;* and in all elections by the people the vote shall be by ballot.

SEC. 18. No member of Congress, or person holding or exercising any office of profit under the United States, or under any foreign power, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of profit under the State; and no person in this State shall ever hold two offices of profit at the same time, except the office of justice of the peace, notary public, constable, and militia offices.

SEC. 19. The general assembly shall by law provide for the appointment or election, and the removal from office, of all officers, civil and military, in this State, not provided for in this constitution.

SEC. 20. The power of impeachment shall be vested in the house of representatives.

SEC. 21. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 22. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the parties shall, nevertheless, be liable to indictment, trial, and punishment according to law.

ARTICLE VII

MILITIA

SECTION 1. All militia officers shall be elected by the persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the general assembly may, from time to time, direct and establish.

SEC. 2. The governor shall appoint all the officers of the executive staff, except the adjutant-general and paymaster-general, who shall be appointed by the governor, by and with the advice and consent of the senate. The major-generals and brigadier-generals, and commanding officers of regiments, shall appoint such staff officers as may be prescribed by law: *Provided*, No person shall be eligible to any staff appointment unless he hold a commission in the line.

ARTICLE VIII

TAXATION AND REVENUE

SECTION 1. The general assembly shall devise and adopt a system of revenue, having regard to an equal and uniform mode of taxation, to be general throughout the State.

SEC. 2. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of government.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law; and a regular statement of the receipts and the expenditures of all public moneys shall be published and promulgated annually with the laws of the general assembly.

SEC. 4. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes respectively; and all property shall be taxed upon the principles established in regard to State taxation.

ARTICLE IX

CENSUS AND APPORTIONMENT OF REPRESENTATION

SECTION 1. The general assembly shall, in the year 1845, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State, and to the whole number of free white inhabitants shall be added three-fifths of the number of slaves; and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving, however, one representative to every county, and increasing the number of representatives, on a uniform ratio of population, according to the foregoing basis; and which ratio shall not be changed until a new census shall have been taken.

SEC. 2. The general assembly shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of the State of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the house of representatives; and they shall lay off the State into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section; each of which districts shall be entitled to one senator.

SEC. 3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

SEC. 4. No new county shall be entitled to separate representation until its population equal the ratio of representation then existing; nor shall any county be reduced in population, by division, below the existing ratio.

SEC. 5. Until the apportionment of representation by the general assembly, as directed in the foregoing section, the several counties shall be entitled to the following representatives, viz: Escambia, three; Walton, one; Washington, one; Jackson, three; Franklin, two; Calhoun, two; Gadsden, four; Leon, six; Jefferson, three; Madison, one; Hamilton, one; Columbia, two; Alachua, two; Duval, two; Nassau, one; Saint John's, three; Mosquito, one; Dade, one; Monroe, one; Hillsborough, one; and, until the apportionment of

senators under the census as aforesaid, there shall be sixteen senatorial districts in this State, which shall be as follows:

The county of Escambia shall compose the first district.

The counties of Walton and Washington shall compose the second district.

The county of Jackson shall compose the third district.

The county of Calhoun shall compose the fourth district.

The county of Franklin shall compose the fifth district.

The county of Gadsden shall compose the sixth district.

The county of Leon shall compose the seventh district.

The county of Jefferson shall compose the eighth district.

The county of Madison shall compose the ninth district.

The county of Hamilton shall compose the tenth district.

The county of Columbia shall compose the eleventh district.

The county of Alachua shall compose the twelfth district.

The county of Duval shall compose the thirteenth district.

The county of Nassau shall compose the fourteenth district.

The counties of Saint John's and Mosquito shall compose the fifteenth district.

The counties of Dade, Monroe, and Hillsborough shall compose the sixteenth district.

And each senatorial district shall elect one senator, and the seventh district shall be entitled to two.

Article X

EDUCATION

Section 1. The proceeds of all lands that have been, or may hereafter be, granted by the United States for the use of schools and a seminary or seminaries of learning, shall be and remain a perpetual fund, the interest of which, together with all moneys derived from any other source applicable to the same object, shall be inviolably appropriated to the use of schools and seminaries of learning, respectively, and to no other purpose.

Sec. 2. The general assembly shall take such measures as may be necessary to preserve from waste or damage all land so granted and appropriated to the purposes of education.

Article XI

PUBLIC DOMAIN AND INTERNAL IMPROVEMENTS

Section 1. It shall be the duty of the general assembly to provide for the prevention of waste and damage of the public lands now possessed, or that may hereafter be ceded to the Territory or State of Florida; and it may pass laws for the sale of any part or portion thereof, and, in such case, provide for the safety, security, and appropriation of the proceeds.

Sec. 2. A liberal system of internal improvements, being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the

general assembly, as soon as practicable, to ascertain, by law, proper objects of improvement, in relation to roads, canals, and navigable streams, and to provide for a suitable application such funds as may be appropriated for such improvements.

Article XII

BOUNDARIES

Section 1. The jurisdiction of the State of Florida shall extend over the Territories of East and West Florida, which, by the treaty of amity, settlement, and limits, between the United States and His Catholic Majesty, on the 22d day of February, A. D. 1819, were ceded to the United States.

Article XIII

BANKS AND OTHER CORPORATIONS

Section 1. The general assembly shall pass a general law for the incorporation of all such churches, and religious or other societies, as may accept thereof; but no special act of incorporation thereof shall be passed.

Sec. 2. The general assembly shall pass no act of incorporation, or make any alteration therein, unless with the assent of at least two-thirds of each house, and unless public notice in one or more newspapers in the State shall have been given for at least three months immediately preceding the session at which the same may be applied for.

Sec. 3. No banking corporation shall be created, or continue, which is composed of a less number than twenty individuals, a majority of whom, at least, shall be residents of the State; and no other corporation shall be created, or continue, composed of a less number than ten, of whom at least five shall be residents of this State.

Sec. 4. No bank-charter, or any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years; and no bank-charter shall ever be extended or renewed.

Sec. 5. The charters of banks granted by the general assembly shall restrict such banks to the business of exchange, discount, and deposit; and they shall not speculate or deal in real estate, or the stock of other corporations or associations, or in merchandise or chattels, or be concerned in insurance, manufacturing, exportation, or importation, except of bullion or specie; shall not act as trustee in any wise, nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be pledged as further security, or received towards or in satisfaction of previously-contracted debts, or purchased at legal sales to satisfy such debts; of which they shall be required to make sale within two years after the acquisition thereof.

Sec. 6. The capital stock of any bank shall not be less than one hundred thousand dollars, and shall be created only by the actual payment of specie therein; and no bank shall borrow money to create or add to its capital or to conduct its business, and no loans shall be made on stock.

Sec. 7. All liabilities of such banks shall be payable in specie, and

the aggregate of the liabilities and issues of a bank shall at no time exceed double the amount of its capital stock paid in.

Sec. 8. No bank shall make a note or security of any kind for a smaller sum than five dollars; and the general assembly may increase such restriction to twenty dollars.

Sec. 9. No dividends of profits exceeding ten per centum per annum on the capital stock paid in shall be made; but all profits over ten per centum per annum shall be set apart and retained as a safety fund.

Sec. 10. Stockholders in a bank, when an act of forfeiture of its charter is committed, or when it is dissolved or expires, shall be individually and severally liable for the payment of all its debts, in proportion to the stock owned by each.

Sec. 11. Banks shall be open to inspection, under such regulations as may be prescribed by law; and it shall be the duty of the governor to appoint a person or persons, not connected in any manner with any bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns to the governor of its state and condition, and the names of the stockholders, and shares held by each.

Sec. 12. Non-user for the space of one year, or any act of a corporation, or those having the control and management thereof, or intrusted therewith, inconsistent with or in violation of the provisions of this constitution, or of its charter, shall cause its forfeiture; and the general assembly shall, by general law, provide a summary process for the sequestration of its effects and assets, the appointment of officers to settle its affairs; and no forfeited charter shall be restored. The foregoing provisions shall not be construed to prevent the general assembly from imposing other restrictions and provisions in the creation of corporations.

Sec. 13. The general assembly shall not pledge the faith and credit of the State to raise funds in aid of any corporation whatsoever.

Sec. 14. The general assembly shall, at its first session, have power to regulate, restrain, and control all associations claiming to exercise corporate privileges in the State, so as to guard, protect, and secure the interests of the people of the State, not violating vested rights or impairing the obligation of contracts.

Article XIV

Amendments and Revision of the Constitution

Section 1. No convention of the people shall be called unless by the concurrence of two-thirds of each house of the general assembly.

Sec. 2. No part of this constitution shall be altered unless a bill to alter the same shall have been read three times in the house of representatives and three times in the senate, and agreed to by two-thirds of each house of the general assembly; neither shall any alteration take place until the bill so agreed to be published six months previous to a new election for members to the house of representatives; and if the alteration proposed by the general assembly shall be agreed to, at their first session, by two-thirds of each house of the general assembly, after the same shall have been read three times on three several days in each house, then, and not otherwise, the same shall become a part of the constitution.

Article XV

THE SEAT OF GOVERNMENT

Section 1. The seat of government of the State of Florida shall be and remain permanent at the city of Tallahassee, for the term and time of five years from and after the end of the first session of the general assembly to be holden under this constitution; and, after the expiration of the said five years, the general assembly shall have power to remove the seat of government from Tallahassee, and fix the same at any other point: *Provided*, That the general assembly shall, immediately after the expiration of ten years from the end of the said first session thereof, fix permanently the seat of government.

Article XVI

GENERAL PROVISIONS

Section 1. The general assembly shall have no power to pass laws for the emancipation of slaves.

Sec. 2. They shall have no power to prevent emigrants to this State from bringing with them such persons as may be deemed slaves by the laws of any one of the United States: *Provided*, They shall have power to enact laws to prevent the introduction of any slaves who may have committed crimes in other States.

Sec. 3. The general assembly shall have power to pass laws to prevent free negroes, mulattoes, and other persons of color, from immigrating to this State, or from being discharged from on board any vessel in any of the ports of Florida.

Sec. 4. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his confession in open court.

Sec. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

Sec. 6. The general assembly shall declare by law what parts of the common law and what parts of the civil law, not inconsistent with this constitution, shall be in force in this State.

Sec. 7. The oaths of officers, directed to be taken under this constitution, may be administered by any judge or justice of the peace of the Territory or State of Florida, until otherwise prescribed by law.

Article XVII

SCHEDULE AND ORDINANCE

In order that no inconvenience may arise from the organization and establishment of the State government, it is declared:

Section 1. That all laws or parts of laws now in force, or which may be hereafter passed by the governor and legislative council of the Territory of Florida, not repugnant to the provisions of this constitution, shall continue in force until, by operation of their provisions or limitations, the same shall cease to be in force, or until the general assembly of this State shall alter or repeal the same; and

all writs, actions, prosecutions, judgments, and contracts shall be and continue unimpaired; and all process which has heretofore issued, or which may be issued prior to the last day of the first session of the general assembly of this State, shall be as valid as if issued in the name of the State; and nothing in this constitution shall impair the obligation of contracts, or violate vested rights, either of individuals, or of associations claiming to exercise corporate privileges in this State.

SEC. 2. All fines, penalties, forfeitures, obligations, and escheats accruing to the Territory of Florida shall accrue to the use of the State of Florida.

SEC. 3. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; and all bonds executed to the governor of the Territory of Florida or to any other officer, in his official capacity, shall pass over to the governor or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all criminal prosecutions and penal actions which have arisen, or which may arise before the organization of the judicial department under this constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

SEC. 4. All officers, civil and military, now holding their offices and appointments in the Territory under the authority of the United States, or under the authority of the Territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution; and all actions at law or suits in chancery, or any proceeding pending, or which may be pending, in any court of the Territory of Florida, may be commenced in or transferred to such court of the State as may have jurisdiction of the subject-matter thereof.

SEC. 5. This constitution shall be submitted to the people for ratification at the election for delegate on the first Monday of May next. Each qualified voter shall express his assent or dissent to the constitution by directing the managers of said election to write opposite to his name on the poll-book either the word "*Constitution*" or "*No constitution.*" And in case the time of election for delegate be changed to any other day than the first Monday of May next, then the judges or clerks of the county courts respectively shall appoint managers to hold an election on the said first Monday of May, for ratification of the constitution; and said managers shall conduct said election in the manner provided by the laws of the Territory respecting elections, and make return of the result of such vote forthwith, by depositing the original poll-book in the clerk's office of their counties, respectively, and by transmitting a certificate of the result to the president of the convention, who shall forthwith make proclamation of the same; and in case the constitution be ratified by the people, and immediately after official information shall have been received that Congress have approved the constitution, and provided for the admission of Florida, the president of this convention shall issue writs of election to the proper officers, in the different counties, enjoining them to cause an election to be held for governor,

Representative in Congress, and members of the general assembly in each of their respective counties. The election shall be held on the first Monday after the lapse of sixty days following the day of the date of the President's proclamation, and shall take place on the same day throughout the State. The said election shall be conducted according to the then existing election laws of the Territory of Florida: *Provided, however*, That in case of the absence or disability of the president of the convention to cause the said election to be carried into effect, the secretary of this convention shall discharge the duties hereby imposed upon the president; and, in case of the absence or disability of the secretary, a committee consisting of five, to wit, Leigh Read, George T. Ward, James D. Westcott, jr., Thomas Brown, and Leslie A. Thompson, or a majority of them, shall discharge the duties herein imposed on the secretary of the convention; and the members of the general assembly so elected shall assemble on the fourth Monday thereafter at the seat of government. The governor, Representative in Congress, and members of the general assembly shall enter upon the duties of their respective offices immediately after their election under the provisions of this constitution, and shall continue in office in the same manner, and during the same period, they would have done had they been elected on the first Monday in October.

SEC. 6. The general assembly shall have power, by the votes of two-thirds of both houses, to accede to such propositions as may be made by the Congress of the United States upon the admission of the State of Florida into the national confederacy and Union, if they shall be deemed reasonable and just, and to make declaration of such assent by law; and such declaration, when made, shall be binding upon the people and the State of Florida as a compact: and the governor of the State of Florida shall notify the President of the United States of the acts of the general assembly relating thereto: and in case of declining to accede to such propositions, or any part thereof, the general assembly shall instruct the Senators and Representatives of the State of Florida in Congress to procure such modification or alteration thereof as may be deemed reasonable and just, and assent thereto, subject to the ratification of the general assembly by law as aforesaid.

SEC. 7. The courts of this State shall never entertain jurisdiction of any grants of land in the Floridas made by the King of Spain, or by his authority, subsequent to the twenty-fourth day of January, eighteen hundred and eighteen; nor shall the said courts receive as evidence, in any case, certain grants said to have been made by the said King of Spain in favor of the Duke of Alagon, the Count Punon Rostro, and Don Pedro de Vargas, or any title derived from either of said grants, unless with the express assent of the Congress of the United States.

Done in convention, held in pursuance of an act of the governor and legislative council of the Territory of Florida, entitled "An act to call a convention for the purpose of organizing a State government," passed 30th day of January, 1838, and approved 2d February, eighteen hundred and thirty-eight.

ROBERT RAYMOND REID,
President of the Convention.

JOSHUA KNOWLES, *Secretary.*

AMENDMENTS

Article I

An Act to amend the Constitution of this State so as to make the sessions of the General Assembly biennial instead of annual

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened*, That the second clause of the fourth article of the Constitution of this State be so amended as to read as follows, viz: 2nd. The members of the House of Representatives shall be chosen by the qualified voters and shall serve for the term of two years from and after the day of the first election under the amended Constitution, and no longer; and the sessions of the General Assembly shall be biennial, and commence on the fourth Monday in November in each and every second year, or at such other times as may be prescribed by law.

Sec. 2. *Be it further enacted*, That the third clause of the fourth article of the Constitution be amended so that the same shall read as follows: 3d. That the Representatives shall be chosen on the first Monday in the month of October in each and every second year, from and after the first election under this amended Constitution, or on such other day as may be directed by law.

Sec. 3. *Be it further enacted*, That the fifth clause of the aforesaid article be so amended as to read as follows, viz: The Senators shall be chosen by the qualified electors for the term of four years at the same time, in the same manner, and in the same place where they vote for members of the House of Representatives, and no person shall be a Senator unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State for two years next preceding his election, and the last year a resident of the District or County for which he shall be chosen, and shall have attained the age of twenty-five years.

Sec. 4. *Be it further enacted*, That the sixth clause of the aforesaid article be so amended as to read as follows, viz; The classification of Senators, as made at the first session of the General Assembly held in the year 1845, shall continue unchanged; one half of whom, as nearly as possible, shall be chosen forever hereafter biennially for the term of four years; *Provided, however*, and it is hereby declared, that the term of office of that class of Senators unexpired at the first election under the amended Constitution, shall extend to, and expire on the first Monday in October eighteen hundred and fifty.

Sec. 5. *Be it further enacted*, That the first election for Assemblymen, under the amended Constitution, shall take place on the first Monday in October, eighteen hundred and forty eight; and the first session of the General Assembly, under this amended Constitution, shall commence on the fourth Monday in November, in the year eighteen hundred and forty eight.

Second General Assembly.—Passed the Senate, by constitutional majority, December 22, 1846. Passed the House of Representatives, by Constitutional majority, December 29, 1846.

Third General Assembly.—Passed the Senate by the constitutional majority, December 21, 1847. Passed the House of Representatives by the constitutional majority, December 23, 1847.

Article II

An Act to amend the Twelfth Clause of the Fifth Article of the Constitution of this State, so that the Judges of the Circuit Courts shall hold their offices for a term of eight years, instead of during good behavior.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened*, That the twelfth clause of the fifth article of the Constitution of this State be so amended as to read as follows, viz: That at the expiration of the present term of office of the Judges of the Circuit Courts, with the exceptions hereinafter mentioned, the Justices of the Supreme Courts and the Judges of the Circuit Courts shall be elected for a term of eight years, and shall hold their offices for that term, unless sooner removed under the provisions made in this Constitution for the removal of Judges, by address or impeachment; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the Governor shall remove any of them, on the address of two thirds of the General Assembly: *Provided, however*, That the cause or causes shall be stated at length in such address and entered on the journals of each house; *And provided, further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense, before any vote for such removal shall pass; and in such cases, the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

Sec. 2. *Be it further enacted*, That the Judges first appointed under this amended Constitution shall be divided by lot into four classes; the first class shall hold his or their office or offices for the term of two years, the second for the term of four years, the third for the term of six years, the fourth for the term of eight years.

Third General Assembly.—Passed the Senate by the constitutional majority, December 22, 1847. Passed the House of Representatives by the constitutional majority, January 6, 1848.

Fourth General Assembly.—Passed the House of Representatives by the constitutional majority, December 8, 1848. Passed the Senate, by the constitutional majority, December 12, 1848.

Article III

An Act so to amend the Constitution of this State as to extend to all free white male inhabitants, being citizens of the United States, who shall have resided within this State one year, the elective franchise

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened*, That the first clause of the sixth article of the Constitution be so amended as follows, viz: Every free white male person of the age of twenty one years and upwards, and who shall be at the time of offering to vote, a citizen of the United States, and who shall have resided and had his habitation, domicil, home, and place of permanent abode in Florida for one year next preceding the election at which he shall offer to vote, and who shall, at such time, and for six months immediately preceding said time, have had his habitation, domicil, home and place of permanent abode in the county in which he may offer to vote, shall be deemed a qualified voter at all elections under this

Constitution, and none others, except in elections by general ticket in the State or district prescribed by law, in which cases the elector must have been a resident of the State one year next preceding the election, and six months within the election district in which he offers to vote: *Provided*, That no soldier, seaman or marine in the Regular Army or Navy of the United States, unless he were a qualified elector of this State previous to his enlistment as such soldier, seaman or marine in the Regular Army or Navy of the United States, or of the revenue service, shall be considered a resident of the State in consequence of being stationed within the same.

Second General Assembly.—Passed Senate by constitutional majority, December 1, 1846. Passed House of Representatives by constitutional majority, December 16, 1846.

Third General Assembly.—Passed Senate by constitutional majority, December 21, 1847. Passed House of Representatives by constitutional majority, December 23, 1847.

CONSTITUTION OF FLORIDA—1861

[A State convention, which met at Tallahassee, passed an ordinance of secession January 10, 1861, and amended the constitution by inserting the words "Confederate States" in place of "United States," with a few other unimportant changes. Other amendments were adopted at called sessions of the convention, held in February, 1861; April, 1861; and January, 1862; but they were not submitted to the people.]

CONSTITUTION OF FLORIDA—1865 *[a]

We, the people of the State of Florida, by our delegates in convention assembled, in the city of Tallahassee, on the 25th day of October, in the year of our Lord 1865, and of the Independence of the United States the ninetieth year, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the pursuit of happiness, do mutually agree, each with the other, to form the following constitution and form of government in and for the said State:

Article I

DECLARATION OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and established, we declare:

Section. 1. That all freemen, when they form a government, have certain inherent and indefeasible rights, among which are those of

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* Verified by—Constitution printed in "The Acts and Resolutions adopted by the General Assembly of Florida at its 14th Session, Tallahassee, Dyke and Sparhawk, 1866," pp. 125–148. See "The Ordinances of the Convention of '65," idem, 149–156.

[a] This constitution was adopted at a convention which met at Tallahassee October 25, 1865, and completed its labors November 7, 1865. It was not submitted to the people for ratification.

enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter or abolish their form of government in such manner as they may deem expedient.

SEC. 3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience, and that no preference shall ever be given by law to any religious establishment or mode of worship in this State.

SEC. 4. That no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State.

SEC. 5. That every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty; and no law shall be passed to curtail, abridge, or restrain the liberty of speech or of the press.

SEC. 6. That the right of trial by jury shall forever remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 8. That no freeman shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

SEC. 9. That courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law; and right and justice administered without sale, denial, or delay.

SEC. 10. That in all criminal prosecutions, the accused hath a right to be heard by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or presentment, a speedy and public trial by an impartial jury of the county or district where the offence was committed; and shall not be compelled to give evidence against himself.

SEC. 11. That all persons shall be bailable by sufficient securities, unless in capital offences, where the proof is evident, or the presumption is strong; and the *habeas-corpus* act shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

SEC. 13. That no person shall, for the same offence, be twice put in jeopardy of life and limb.

SEC. 14. That private property shall not be taken or applied to public use, unless just compensation be first made therefor.

SEC. 15. That in all prosecutions and indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the libel is true, and published with good motives, and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law and facts.

SEC. 16. That no person shall be put to answer any criminal charge, but by presentment, indictment, or impeachment, except in such cases as the legislature shall otherwise provide; but the legislature shall pass no law whereby any person shall be required to answer any criminal charge involving the life of the accused, except upon indictment or presentment by a grand jury.

SEC. 17. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. That retrospective laws punishing acts committed before the existence of such laws, and by them only declared penal or criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law shall ever be made.

SEC. 19. That no law impairing the obligation of contracts shall be passed.

SEC. 20. That the people shall have a right, in a peaceable manner, to assemble together to consult for the common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 21. That no soldier, in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.

SEC. 22. That no standing army shall be kept up without the consent of the legislature; and the military shall be in strict subordination to the civil power.

SEC. 23. That perpetuities and monopolies are contrary to the genius of a free people, and ought not to be allowed.

SEC. 24. That no hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 25. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 26. That, to guard against transgressions upon the rights of the people, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II

DISTRIBUTION OF THE POWERS OF GOVERNMENT

SECTION 1. The powers of the government of the State of Florida shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judicial to another.

SEC. 2. No person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except in the instance expressly provided in this constitution.

Article III

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled the governor of the State of Florida.

Sec. 2. The governor shall be elected for four years, by the qualified electors, at the time and place they shall vote for representatives, and shall remain in office until a successor shall be chosen and qualified.

Sec. 3. No person shall be eligible to the office of governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States ten years, and shall have been a resident of Florida at least five years next preceding his election.

Sec. 4. There shall be elected at the same time, for the same term, and with like qualifications as the governor, a lieutenant-governor, who shall be *ex-officio* president of the senate, but shall have no vote except in cases of a tie, and during the session of the general assembly he shall receive such compensation as shall be allowed to a senator.

Sec. 5. The returns of every election for governor or lieutenant-governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session next after their election, open and publish them in the presence of both houses of the general assembly; and the persons having the highest number of votes for the respective offices shall be governor and lieutenant-governor: but if two or more shall be equal and highest in votes for the office of governor, one of them shall be chosen governor by the joint vote of the two houses; and, in like manner, if two or more shall be equal and highest in votes for the office of lieutenant-governor, one of them shall be chosen lieutenant-governor, by the joint vote of the two houses. And contested elections for governor and lieutenant-governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 6. The governor shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected: but such compensation shall never be less than three thousand dollars per annum.

Sec. 7. He shall be the commander-in-chief of the army and navy of this State, and of the militia thereof.

Sec. 8. He may require information in writing from the officers of the executive department on any subject relating to the duties of their respective offices.

Sec. 9. He may by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become dangerous from an enemy or from disease; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not beyond the day of the next meeting designated by the constitution.

Sec. 10. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 11. He shall take care that the laws be faithfully executed.

SEC. 12. In all criminal and penal cases, (except of impeachment,) after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law.

SEC. 13. The State seal last heretofore used (until altered by the general assembly) shall continue to be the great seal of the State, and shall be kept by the governor for the time being, and used by him officially.

SEC. 14. All commissions shall be in the name and by the authority of the State of Florida, be sealed with the State seal, and signed by the governor and attested by the secretary of state.

SEC. 15. There shall be a secretary of state elected by the qualified electors of the State at the same time, and who shall continue in office for the same term of years as the governor of the State; and he shall keep a fair register of the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required of him by law.

SEC. 16. Vacancies that happen in offices, the appointment to which is vested in the general assembly, or given to the governor, with the advice and consent of the senate, shall be filled by the governor during the recess of the general assembly, by granting commissions which shall expire at the end of the next session.

SEC. 17. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; and if, after such reconsideration, two-thirds of the whole number voting shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered; and if approved by two-thirds of the whole number voting, it shall become a law; but in such cases the votes of both houses shall be by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; and if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed, unless the general assembly by their adjournment prevent its return, in which case it shall not be law.

SEC. 18. Every order, resolution, or vote, to which the concurrence of both houses may be necessary (except on questions of adjournment) shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 19. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until the governor, absent or impeached, shall return, or be acquitted, or until the governor next regularly elected shall be duly qualified, as the case may be; and for the time the lieutenant-governor shall occupy the office of governor

he shall receive the same compensation as shall be allowed by law to the regularly-elected governor.

SEC. 20. In case of the impeachment of both the governor and the lieutenant-governor, their removal from office, death, refusal to qualify, resignation, or absence from the State, the speaker of the house of representatives shall in like manner administer the government, unless the general assembly shall otherwise provide; and for the time he shall occupy the office of governor, he shall receive the same compensation as shall be allowed by law to the governor.

SEC. 21. It shall be the duty of the general assembly to provide for the purchase or erection of a suitable building for the residence of the governor, and the governor shall reside at the seat of government: but whenever, by reason of danger from an enemy, or from disease, the governor may deem the capital unsafe, he may, by proclamation, fix the seat of government at some secure place within the State, until such danger shall cease.

SEC. 22. No person shall hold the office of governor and any other office or commission, civil or military, either in this State or under any State, or the United States, or any other power, at one and the same time, except the lieutenant-governor or the speaker of the house of representatives, when he shall hold the office as aforesaid.

SEC. 23. A State treasurer and comptroller of public accounts shall be elected by the qualified electors of the State at the same time, and who shall continue in office for the same term of years as the governor of the State, and until their successors shall have been duly commissioned and qualified.

ARTICLE IV

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the senate, the other the house of representatives, and both together "the general assembly of the State of Florida;" and the style of the laws shall be, "*Be it enacted by the senate and house of representatives of the State of Florida in general assembly convened.*"

SEC. 2. The members of the house of representatives shall be chosen by the qualified voters, and shall serve for the term of two years from the day of the general election, and no longer; and the sessions of the general assembly shall be annual, and commence on the second Wednesday in November in each year.

SEC. 3. The representatives shall be chosen every two years on the first Monday in the month of October, until otherwise directed by law.

SEC. 4. No person shall be a representative unless he be a white man, a citizen of the United States, and shall have been an inhabitant of the State two years next preceding his election, and the last year thereof a resident of the county for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 5. The senators shall be chosen by the qualified electors for the term of two years, at the same time, in the same manner, and in the same places where they vote for members of the house of representa-

tives, and no man shall be a senator unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district or county for which he shall be chosen, and shall have attained the age of twenty-five years.

SEC. 6. The house of representatives, when assembled, shall choose a speaker and its other officers, and the senate, its other officers, and in the absence of the lieutenant-governor, a president *pro tempore*, and each house shall be judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 7. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 8. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and with the consent of two-thirds expel a member, but not a second time for the same cause.

SEC. 9. Each house, during the session, may punish, by imprisonment, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not extend beyond the end of the session.

SEC. 10. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment; and the yeas and nays of the members of each house shall be taken and entered upon the journals upon the final passage of every bill, and may, by any two members, be required upon any other question; and any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public, or an individual, and have the reasons of his dissent entered on the journal.

SEC. 11. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same, allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened, and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 12. The general assembly shall make provision by law for filling vacancies that may occur in either house by the death, resignation, or otherwise of any of its members.

SEC. 13. The doors of each house shall be open when in legislative session, except on such occasions as, in the opinion of the house, the public safety may imperiously require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house of the general assembly; and all bills passed by one house may be discussed, amended, or rejected by the other; but no bill shall have the force of law until on three several days it be read in each house and free discussion be allowed thereon, unless, in cases of urgency, four-fifths of the house

in which the same shall be pending may deem it expedient to dispense with the rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 16. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the representatives were elected when such law passed.

SEC. 17. The sessions of the general assembly shall not extend in duration over thirty days, unless it be deemed expedient by a concurrent majority of two-thirds of the members of each house; and no member shall receive pay from the State for his services after the expiration of sixty days continuously from the commencement of the session.

SEC. 18. The general assembly shall by law authorize the circuit court to grant licenses for building toll-bridges, and to establish ferries, and to regulate the tolls of both; to construct dams across streams not navigable; to ascertain and declare what streams are navigable; but no special law for such purpose shall be made.

SEC. 19. The general assembly shall pass a general law prescribing the manner in which names of persons may be changed, but no special law for such purpose shall be passed; and no law shall be made allowing minors to contract, or manage their estates.

SEC. 20. The general assembly shall pass a general law for the incorporation of towns, religious, library, scientific, benevolent, military, and other associations, not commercial, industrial, or financial; but no special act incorporating any such association shall be passed.

SEC. 21. No act incorporating any railroad, banking, insurance, commercial, or financial corporation shall be introduced into the general assembly, unless the person or persons applying for such corporation shall have deposited with the treasurer the sum of one hundred dollars as a bonus to the State.

SEC. 22. Officers shall be removed from office for incapacity, misconduct, or neglect of duty, in such manner as may be provided by law, when no mode of trial or removal is provided in this constitution.

ARTICLE V

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, courts of chancery, circuit courts, and justices of the peace, provided the general assembly may also vest such civil or criminal jurisdiction as may be necessary in corporation courts, and such other courts as the general assembly may establish; but such jurisdiction shall not extend to capital cases.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law: *Provided*, That the said court shall always have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other original and remedial writs as may be necessary to give it a general superintendence and control of all other courts.

SEC. 3. The supreme court shall be holden at such times and places as may be prescribed by law; and two judges of the circuit court may be added to the supreme court, when in session, at the discretion of the legislature; and the court so composed shall constitute the supreme court of the State, when the legislature shall so direct.

SEC. 4. The State shall be divided into convenient circuits; and for each circuit there shall be a judge, who shall, after his election or appointment, reside in the circuit for which he has been elected or appointed; and shall, as well as justices of the supreme court, receive for his services a salary of not less than twenty-five hundred dollars per annum, which shall not be diminished during his continuance in office; but the judges shall receive no fees, perquisites of office, nor hold any other office of profit under the State, the United States, or any other power.

SEC. 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, not otherwise excepted in this constitution.

SEC. 6. A circuit court shall be held in such counties, and at such times and places therein, as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other, either for the entire circuit, or for a portion thereof, and they shall do so when required, by order of the governor or chief-justice of the supreme court; and they may exercise jurisdiction in cases of writs of *habeas corpus* in any judicial circuit in which the judge may happen to be at the time the case arises.

SEC. 7. The general assembly shall have power to establish and organize a separate court or courts of original equity jurisdiction; but until such court or courts shall be established and organized, the circuit courts shall exercise such jurisdiction.

SEC. 8. There shall be elected in each county of this State, by the qualified voters, an officer to be styled the judge of probate, to take probate of wills, to grant letters testamentary, of administration and guardianship, to attend to the settlement of the estates of decedents and minors, and to discharge the duties usually appertaining to courts of ordinary, and such other duties as may be required by law; subject to the direction and supervision of the circuit courts, as may be provided by law.

SEC. 9. A competent number of justices of the peace shall be from time to time elected in and for each county, in such mode, and for such term of office, as the general assembly may direct, and shall possess such jurisdiction as may be prescribed by law; and in cases tried before a justice of the peace, the right of appeal shall be secured under such rules and regulations as may be prescribed by law.

SEC. 10. There shall be appointed by the governor, by and with the advice and consent of the senate, a chief-justice and two associate justices of the supreme court of this State, who shall reside in this State, and hold their office for the term of six years from their appointment and confirmation, unless sooner removed under the provisions of this constitution, for the removal of judges by address or impeachment; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of two-thirds of the general assembly: *Provided*, *however*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such

removal shall pass, and in such case the vote shall be taken by yeas and nays, and entered on the journal of each house respectively, and in case of the appointment to fill a vacancy in said offices, the person so appointed shall only hold office for the unexpired term of his predecessor.

SEC. 11. There shall be elected, at the time and places prescribed by law, by the qualified electors of each of the respective judicial circuits of this State, one judge of the circuit court, who shall reside in the circuit for which he may be elected, and the said circuit judges shall continue in office for the term of six years from the date of their respective elections, unless sooner removed, under the provisions in this constitution for the removal of judges by address or impeachment: and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient for impeachment, the governor shall remove any of them, on the address of two-thirds of the general assembly: *Provided, however*, That the cause or causes shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to such judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote or votes for such removal shall pass: and in such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

SEC. 12. The appointment of chief-justice and associate justices of the supreme court shall be made every sixth year after their first appointment, and the election of judges of the circuit court, and judges or chancellors of the chancery court, when established, shall be held in every sixth year after their first elections, at the same time and places as the elections for members of the general assembly.

SEC. 13. That whenever the general assembly shall create a chancery court, under the provisions of this constitution, the judges thereof shall be elected in the manner provided in the last two sections of this article, and shall hold their offices and be subject to all the provisions of said sections: *Provided, however*, That the said judges shall be elected by general ticket or by districts, as the general assembly may direct.

SEC. 14. That should a vacancy occur either in the chancery or circuit courts, by death, removal, resignation, or otherwise, it shall be the duty of the governor to issue a writ of election to fill such vacancy, and he shall give at least sixty days' notice thereof by proclamation; and the judge so elected to fill such vacancy shall continue in office from the time he qualifies under his commission until the expiration of the term of his predecessor: *Provided, however*, That should it become necessary to fill any such vacancy before an election can be held under the provisions of this constitution, the governor shall have power to fill such vacancy by appointment, and the person so appointed shall hold his office from the date of his commission until his successor shall be duly elected and qualified.

SEC. 15. The clerks of the circuit courts of the several circuits of this State shall be elected by the qualified voters in their several counties at such times and places as are now or may be provided by law: *Provided, however*, That the chief-justice of the supreme court and the chancellors of the court of chancery, when such courts shall be established, shall have the power to appoint the clerks of their respective courts.

SEC. 16. The justices of the supreme court, chancellors and judges of the circuit courts, shall, by virtue of their offices, be conservators of the peace throughout the State.

SEC. 17. The style of all process shall be "The State of Florida;" and all criminal prosecutions shall be carried on in the name of the State, and all indictments shall conclude, "against the peace and dignity of the same."

SEC. 18. There shall be an attorney-general for the State, who shall reside at the seat of government, and he shall perform such duties as may be prescribed by law; he shall be elected by the qualified voters of the State, at the same time and in the same manner that the comptroller, secretary of state, and treasurer are elected, and his term of office shall be the same; but he may be removed by the governor, on the address of a majority of the two houses of the general assembly, and shall receive for his services a compensation to be fixed by law.

SEC. 19. There shall be one solicitor for each circuit, who shall reside therein, to be elected by the qualified electors of the circuit, who shall hold his office for the term of four years, and shall receive for his services a compensation to be fixed by law.

SEC. 20. No justice of the supreme court shall sit as a judge, or take part in the appellate court on the trial or hearing of any case which shall have been decided by him in the court below.

SEC. 21. The general assembly shall have power to establish in each county a board of commissioners, for the regulation of the county business therein.

SEC. 22. No duty not judicial shall be imposed by law upon the justices of the supreme court, chancellors, or the judges of the circuit courts of this State, except in cases otherwise provided for in this constitution.

ARTICLE VI

THE RIGHT OF SUFFRAGE—CIVIL OFFICERS

SECTION 1. Every free white male person of the age of twenty-one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States, and who shall have resided and had his habitation, domicile, home, and place of permanent abode in Florida, for one year next preceding the election at which he shall offer to vote, and who shall, at such time, and for six months immediately preceding said time, have had his habitation, domicile, and place of permanent abode in the county in which he may offer to vote, shall be deemed a qualified elector at all elections under the constitution, and none others; except in elections by general ticket in the State or district prescribed by law, in which cases the elector must have been a resident of the State one year next preceding the election, and six months within the elective district in which he offers to vote: *Provided*, That no officer, soldier, seaman, or marine in the Regular Army or Navy of the United States, or any other person in the employ or pay of the United States, unless he be a qualified elector of the State previous to his appointment or enlistment as such officer, soldier, seaman, or marine in the Regular Army or Navy of the United States, or of the revenue service, shall be considered a resident of the State in consequence of being stationed within the same.

SEC. 2. The general assembly shall have power to exclude from every office of honor, trust, or profit within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 3. No person shall be capable of holding or being elected to any post of honor, profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or who shall, in any manner, aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State; but the legal disability shall not accrue until after trial and conviction, according to due form of law.

SEC. 4. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be accountable.

SEC. 5. No governor, member of Congress, or of the general assembly of this State, shall receive a fee, be engaged as counsel, agent, or attorney, in any civil case or claim against this State, or to which this State shall be a party, during the time he shall remain in office.

SEC. 6. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 7. Members of the general assembly, and all officers, civil or military, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I do swear (or affirm) that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been elected, (or appointed,) and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and of the United States of America."

SEC. 8. Every person shall be disqualified from serving as governor, senator, representative, or from holding any other office of honor or profit in this State, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

SEC. 9. Laws shall be made by the general assembly to exclude from office, and from suffrage, those who shall have been, or may hereafter be, convicted of bribery, perjury, forgery, or other high crime or misdemeanor; and the privilege of suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

SEC. 10. All civil officers of the State at large shall reside within the State, and all district or county officers within their respective districts or counties, and shall keep their respective offices at such places therein as may be required by law.

SEC. 11. It shall be the duty of the general assembly to regulate

by law in what cases and what deduction from the salaries of public officers shall be made for any neglect of duty in their official capacity.

SEC. 12. Returns of elections for members of Congress and the general assembly shall be made to the secretary of state, in manner to be prescribed by law.

SEC. 13. In all elections of the general assembly the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

SEC. 14. No member of Congress or person holding or exercising any office of profit under the United States, or under any foreign power, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of profit under the State; and no person in this State shall ever hold two offices of profit at the same time, except the office of justice of the peace, notary public, constable, and militia officers, except by special act of the legislature; but the legislature shall never unite in the same person two offices the duties of which are incompatible.

SEC. 15. The general assembly shall, by law, provide for the appointment or election, and removal from office, of all officers, civil and military, in this State, not provided for in this constitution.

SEC. 16. The power of impeachment shall be vested in the house of representatives.

SEC. 17. All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 18. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this State; but the parties nevertheless shall be liable to indictment, trial, and punishment according to law.

ARTICLE VII

MILITIA

SECTION 1. All militia officers shall be elected or appointed, under such rules and regulations as the general assembly may from time to time direct and establish.

SEC. 2. All offences against the militia law shall be tried by court-martial, or before a court and jury, as the general assembly may direct.

SEC. 3. No commission shall be vacated except by sentence of a court-martial.

ARTICLE VIII

TAXATION AND REVENUE

SECTION 1. The general assembly shall advise and adopt a system of revenue, having regard to an equal and uniform mode of taxation throughout the State.

SEC. 2. No other or greater amount of tax or revenue shall at any

time be levied that may be required for the necessary expenses of the government.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law, and a regular statement of the receipts and expenditures of all public moneys shall be published and promulgated annually with the laws of the general assembly.

SEC. 4. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes, respectively, and all property shall be taxed upon the principles established in regard to State taxation.

SEC. 5. The general assembly shall have power to authorize the levying of a capitation tax.

ARTICLE IX

CENSUS AND APPORTIONMENT OF REPRESENTATION

SECTION 1. The general assembly shall, in the year one thousand eight hundred and sixty-seven, and in the year one thousand eight hundred and seventy-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State; and to the whole number of white inhabitants shall be added three-fifths of the number of colored people: and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving, however, one representative to every county, and increasing the number of representatives on a uniform ratio of population, according to the foregoing basis, and which ratio shall not be changed until a new census shall have been taken.

SEC. 2. The general assembly shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of the State of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the house of representatives; and they shall lay off the State into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section, each of which districts shall be entitled to one senator.

SEC. 3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

SEC. 4. No county now organized shall be divided into new counties, so as to reduce the inhabitants of either below the ratio of representation.

SEC. 5. The several counties of this State shall be entitled to the following representatives, viz: Escambia three, Santa Rosa two, Walton two, Holmes one, Washington one, Calhoun one, Franklin one, Jackson four, Gadsden three, Leon four, Wakulla one, Liberty one, Jefferson three, Madison two, Hamilton two, La Fayette one, Taylor one, Suwannee one, Columbia two, Baker one, Bradford one, Alachua two, Nassau one, Duval two, Clay one, Saint John's one, Putnam one, Marion two, Sumter one, Orange one, Volusia one,

Brevard one, Levy one, Hernando one, Hillsborough one, Manatee one, Monroe one, Dade one, and Polk one. There shall be twenty-nine senatorial districts in this State, which shall be as follows: The county of Escambia shall compose the first district; the county of Santa Rosa shall compose the second district; the county of Walton shall compose the third district; the counties of Washington and Holmes shall compose the fourth district; the county of Franklin shall compose the fifth district; the county of Calhoun shall compose the sixth district; the county of Jackson shall compose the seventh district; the county of Gadsden shall compose the eighth district; the county of Liberty shall compose the ninth district; the county of Leon shall compose the tenth district; the county of Wakulla shall compose the eleventh district; the county of Jefferson shall compose the twelfth district; the county of Madison shall compose the thirteenth district; the county of Hamilton shall compose the fourteenth district; the counties of La Fayette and Taylor shall compose the fifteenth district; the county of Columbia shall compose the sixteenth district; the county of Suwannee shall compose the seventeenth district; the counties of Baker and Bradford shall compose the eighteenth district; the county of Alachua shall compose the nineteenth district; the county of Nassau shall compose the twentieth district; the counties of Duval and Clay shall compose the twenty-first district; the counties of Saint John's and Putnam shall compose the twenty-second district; the county of Marion shall compose the twenty-third district; the county of Sumter shall compose the twenty-fourth district; the counties of Orange and Volusia shall compose the twenty-fifth district; the counties of Levy and Hernando shall compose the twenty-sixth district; the counties of Hillsborough and Manatee shall compose the twenty-seventh district; the counties of Polk and Brevard shall compose the twenty-eighth district; and the counties of Monroe and Dale shall compose the twenty-ninth district; and each senatorial district shall be entitled to one senator.

Article X

EDUCATION

Section 1. The proceeds of all lands for the use of schools and a seminary or seminaries of learning shall be and remain a perpetual fund, the interest of which, together with all moneys accrued from any other source, applicable to the same object, shall be inviolably appropriated to the use of schools and seminaries of learning respectively, and to no other purpose.

Sec. 2. The general assembly shall take such measures as may be necessary to preserve from waste or damage all lands so granted and appropriated for the purpose of education.

Article XI

PUBLIC DOMAIN AND INTERNAL IMPROVEMENT

Section 1. It shall be the duty of the general assembly to provide for the prevention of waste and damage of the public lands, that may hereafter be ceded to the State of Florida, and it may pass

laws for the sale of any part or portion thereof, and, in such cases, provide for the safety, security, and appropriation of the proceeds, but in no wise to affect the purposes for which said lands have heretofore been appropriated.

SEC. 2. A liberal system of internal improvements, being essential to the development of the resources of the State, shall be encouraged by the government of this State; and it shall be the duty of the general assembly, as soon as practicable, to ascertain by law proper objects for the extension of internal improvements, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may have been, or may hereafter be, appropriated by said general assembly for such improvements.

SEC. 3. That the general assembly may at any time cede to the United States Government a sufficient parcel or fraction of land for the purpose of coast defence and other national purposes.

ARTICLE XII

BOUNDARIES

SECTION 1. The boundary of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido, from thence up the middle of said river to where it intersects the southern boundary-line of the State of Alabama, on the thirty-first degree of north latitude; then due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint River; from thence straight to the head of the Saint Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southwardly to the Gulf of Florida and Gulf of Mexico; thence northwardly and westwardly, including all islands within five leagues of the shore, to the beginning.

ARTICLE XIII

BANKS AND OTHER CORPORATIONS

SECTION 1. The general assembly shall pass no act of incorporation, nor make any alteration in one, unless with the assent of at least two-thirds of each house, and unless public notice in one or more newspapers in the State shall have been given for at least three months immediately preceding the session at which the same may be applied for.

SEC. 2. No bank-charter, nor any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years.

SEC. 3. Banks chartered by the general assembly shall be restricted to the business of exchange, discount, and deposit, and they shall not deal in real estate, nor in merchandise or chattels, except as security for loans or discounts, or for debts due to such bank; nor shall they be concerned in insurance, manufacturing, exportation, or importation, except of bullion or specie; nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be received in payment of previously-contracted debts, or purchased at legal sales to satisfy

such debts, of which they shall be required to make sale within three years after the acquisition thereof.

SEC. 4. The capital stock of any bank shall not be less than one hundred thousand dollars, to be paid in suitable instalments, and shall be created only by the payment of specie therein.

SEC. 5. All liabilities of such banks shall be payable in specie, and the circulation of no bank shall exceed three dollars for one of capital actually paid in.

SEC. 6. No dividends or profits exceeding ten per centum per annum on the capital stock paid in shall be made; but all profits over ten per centum per annum shall be set apart and retained as a safety fund.

SEC. 7. Stockholders in a bank, when an act of forfeiture is committed, or when it is dissolved or has expired, shall be individually and severally liable for the redemption of the outstanding circulation, in proportion to the stock owned by each; and no transfer of stock shall exonerate such stockholders from this liability, unless such transfer was made at least two years previous to said forfeiture, dissolution, or expiration.

SEC. 8. Banks shall be open to inspection, under such regulations as may be prescribed by law; and it shall be the duty of the governor to appoint a person or persons, not connected in any manner with any bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns, under oath, to the governor of its state and condition, and the names of the stockholders, and shares held by each.

SEC. 9. Non-user for the space of one year, or any act of a corporation, or those having the control or management thereof, or intrusted therewith, inconsistent with or in violation of the provisions of this constitution or of its charter, shall cause its forfeiture, and the general assembly shall by general law provide a summary process for the sequestration of its effects and assets, and the appointment of officers to settle its affairs; and no forfeited charter shall be restored.

SEC. 10. The general assembly shall not pledge the faith and credit of the State to raise funds in the aid of any corporation whatever.

ARTICLE XIV

AMENDMENTS AND REVISIONS OF THE CONSTITUTION

SECTION 1. No part of this constitution shall be altered except by a convention duly elected.

SEC. 2. No convention of the people shall be called unless by the concurrence of two-thirds of all the members of each house of the general assembly, made known by the passing of a bill, which shall be read three times on three several days in each house.

SEC. 3. Whenever a convention shall be called, proclamation of an election for delegates shall be made by the governor at least thirty days before the day of election. Every county and senatorial district shall be entitled to as many delegates as it has representatives in the general assembly. The same qualifications shall be required in delegates and in electors that are required in members of the general assembly, and voters for the same respectively; and the elections for delegates to a convention, and the returns of such election, shall be

held and made in the manner prescribed by law for regulating elections for members of the general assembly, but the convention shall judge of the qualifications of its members.

Article XV

SEAT OF GOVERNMENT

The seat of government shall be and remain permanent at the city of Tallahassee, until otherwise provided for by the action of a convention of the people of the State.

Article XVI

GENERAL PROVISIONS

Section 1. Whereas slavery has been destroyed in this State by the Government of the United States, therefore neither slavery nor involuntary servitude shall in future exist in this State, except as a punishment for crimes whereof the party shall have been convicted by the courts of the State; and all the inhabitants of the State, without distinction of color, are free, and shall enjoy the rights of person and property, without distinction of color.

Sec. 2. In all criminal proceedings founded upon injury to a colored person, and in all cases affecting the rights and remedies of colored persons, no person shall be incompetent to testify as a witness on account of color; in all other cases, the testimony of colored persons shall be excluded, unless made competent by future legislation. The jury shall judge of the credibility of the testimony.

Sec. 3. The jurors of this State shall be white men, possessed of such qualifications as may be prescribed by law.

Sec. 4. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his confession in open court.

Sec. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

Sec. 6. The general assembly shall declare by law what parts of the common law and what parts of the civil law, not inconsistent with this constitution, shall be in force in this State.

Sec. 7. The oaths of officers directed to be taken under this constitution may be administered by any judge or justice of the peace in the State of Florida until otherwise provided by law.

Article XVII

SCHEDULE AND ORDINANCE.

Section 1. All laws of the State passed during and since the tenth session of the legislature thereof, in 1860, not repugnant to the constitution of this State or of the United States, shall be valid; all writs, actions, prosecutions, judgments, and decrees of the courts of the State, all executions and sales made thereunder, and all acts, orders, and proceedings of the judges of probate, and of executors,

administrators, guardians, and trustees, provided they were in conformity to the laws then in force, and not fraudulent, shall be as valid as if made under the usual and ordinary legislation of the country, provided that the same be not repugnant to the constitution of the State and of the United States.

SEC. 2. All fines, penalties, forfeitures, obligations, and escheats heretofore accruing to the State of Florida, and not made unlawful by the constitution or laws of the United States, shall continue to accrue to the use of the State.

SEC. 3. All recognizances heretofore taken shall remain valid, and all bonds executed to the governor of the State of Florida, either before or since the 1st day of January, 1861, or to any other officer of the State in his official capacity, shall be of full force and virtue for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all criminal prosecutions and penal actions which have arisen may be prosecuted to judgment and execution in the name of the State.

SEC. 4. The provisional governor of this State is hereby requested to authorize the civil officers of this State who were discharging the duties of their offices prior to or during the month of May, A. D. 1865, to resume the exercise of the functions of their respective offices, and to make such other appointments to office as may be necessary or proper to reorganize or reëstablish the civil government of this State; and all actions at law or suits in chancery, or any proceeding pending in any of the courts in this State prior to or during the said month of May, A. D. 1865, and either before or subsequent to the 10th day of January, A. D. 1861, shall continue in all respects valid, and may be prosecuted to judgment and decree; and all judgments and decrees rendered in civil causes in any of the courts in this State during the period of time last above specified, and not repugnant to the Constitution of the United States, are hereby declared of full force, validity, and effect.

SEC. 5. The provisional governor of the State is hereby requested and authorized, at as early a day as practicable, to issue writs of election to the proper officers in the different counties in this State, and make proclamation for an election for governor, lieutenant-governor, secretary of state, treasurer, comptroller of public accounts, attorney-general, circuit judges, judge of probate, sheriffs, clerks of circuit courts, solicitors, Representative in Congress, senators and representatives of the general assembly, county commissioners, coroners, justices of the peace, county surveyors, and all other officers provided for by this constitution. The said election shall be held on the 29th day of November, A. D. 1865. The said election shall be conducted according to the existing laws of the State of Florida, and shall take place on the same day throughout the State, the returns to be made according to law. The members of the general assembly, so elected, shall assemble on the 3d Monday in December, A. D. 1865. The governor, lieutenant-governor, secretary of state, treasurer, comptroller of public accounts, attorney-general, circuit judges, judges of probate, sheriffs, clerks of circuit courts, solicitors, Representative in Congress, senators and representatives of the general assembly, county commissioners, coroners, justices of the peace, county surveyors, and all other officers provided for by this constitution, shall enter upon the duties of their respective offices immediately after their election, and

shall continue in office in the same manner and during the same period they would have done had they been elected on the first Monday in October, A. D. 1865. The Representative in Congress shall continue in office in the same manner and during the same period he would have done had he been elected on the first Monday in October, A. D. 1865.

SEC. 6. The statutes of limitations shall not be pleaded upon any claim in the hands of any person whomsoever, not sued upon when such claim was not barred by the statutes of limitation on the 10th day of January, 1861.

SEC. 7. No law of this State providing that claims or demands against the estates of decedents shall be barred if not presented within two years, shall be considered as being in force within this State between the 10th day of January, 1861, and the 25th day of October, 1865.

Done in open convention. In witness whereof the undersigned, the president of said convention, and delegates present, representing the people of Florida, do hereby sign our names this the seventh day of November, anno Domini eighteen hundred and sixty-five, and of the Independence of the United States the ninetieth year, and the secretary of said convention doth countersign the same.

E. D. TRACY, *President.*

A. J. PEELER, *Secretary.*

CONSTITUTION OF FLORIDA—1868 * [a]

PREAMBLE

We the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquillity, maintaining public order, perpetuating liberty, and guaranteeing equal civil and political rights to all, do establish this constitution:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All men are by nature free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of its citizens,

* See Journal of the Proceedings of the Constitutional Convention of the State of Florida, Begun and Held at the Capitol, at Tallahassee, on Monday, January 20th, 1868. Tallahassee: Edward M. Cheney, Printer. 1868. pp. 134.

[a] This constitution was framed at a convention held under the reconstruction laws at Tallahassee, January 20, 1868, which ignored the constitution of 1865, and completed its work February 25, 1868. It was submitted to the people in May, 1868, and ratified by 14,520 votes against 9,491 votes.

and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the Federal Government, and no power exists with the people of this State to dissolve its connection therewith.

SEC. 3. This State shall ever remain a member of the American Union, the people thereof a part of the American nation, and any attempt, from whatever source, or upon whatever pretense, to dissolve said Union, or to sever said nation, shall be resisted with the whole power of the State.

SEC. 4. The right of trial by jury shall be secured to all, and remain inviolate forever; but in all civil cases a jury-trial may be waived by the parties in the manner to be prescribed by law.

SEC. 5. The free exercise and enjoyment of religious profession and worship shall forever be allowed in this State, and no person shall be rendered incompetent as a witness on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness, or practices subversive of the peace and safety of the State.

SEC. 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of invasion or rebellion, the public safety may require its suspension.

SEC. 7. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment be inflicted, nor shall witnesses be unreasonably detained.

SEC. 8. All persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, the presumption great.

SEC. 9. No person shall be tried for a capital or otherwise infamous crime, except in cases of impeachment, and in cases of the militia when in active service in time of war, or which the State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, made under the regulation of the legislature, unless on presentment and indictment by a grand jury; and in any trial by any court the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken without just compensation.

SEC. 10. Every citizen may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or the press. In all criminal prosecutions and civil actions for libel the truth may be given in evidence to the jury, and if it shall appear that the matter charged as libellous is true, but was published from good motives, the party shall be acquitted or exonerated.

SEC. 11. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievance.

SEC. 12. All laws of a general nature shall have a uniform operation.

SEC. 13. The military shall be subordinate to the civil power.

SEC. 14. No soldier shall, in time of peace, be quartered in any

house, except with the consent of the owner, nor in time of war, except in manner prescribed by law.

Sec. 15. Representatives shall be apportioned according to population, as well as may be, but no county shall have more than four representatives and less than one representative in the assembly.

Sec. 16. No person shall be imprisoned for debt, except in case of fraud.

Sec. 17. No bill of attainder, or *ex post facto* law, impairing the obligations of contracts, shall ever be passed.

Sec. 18. Foreigners, who are, or who may hereafter become, *bona-fide* residents of the State, shall enjoy the same rights in respect to possession, enjoyment, and inheritance of property as native-born citizens.

Sec. 19. Neither slavery or involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

Sec. 20. The right of the people to be secure in either person, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated, and no warrants issued but in probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons and thing or things to be seized.

Sec. 21. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the overt act, or confession in open court. This enunciation of rights shall not be construed to impair or deny others retained by the people.

Sec. 22. The people shall have the right to bear arms in defence of themselves and of the lawful authority of the State.

Sec. 23. No preference can be given by law to any church, sect, or mode of worship.

Article II

BOUNDARIES

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary-line of the State of Alabama on the thirty-first degree of north latitude; thence due east to the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; from thence straight to the head of the Saint Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southeastwardly, along the coast, to the edge of the Gulf Stream; thence southwestwardly, along the edge of the Gulf Stream and Florida Reefs, to and including the Tortugas Islands; thence northwestwardly to a point five leagues from the mainland; thence northwestwardly five leagues from the shore, including all islands, to a point five leagues due south from the middle of the mouth of Perdido River; thence to the place of beginning.

Article III

SEAT OF GOVERNMENT

The seat of government shall be and remain permanent at the city of Tallahassee, in the county of Leon, until otherwise located by a majority vote of the legislature, and by a majority vote of the people.

Article IV

DISTRIBUTION OF POWER

The powers of the government of the State of Florida shall be divided into three departments, to wit, legislative, executive, and judicial. No person properly belonging to one of the departments shall exercise any functions appertaining to either of the others, except in those cases expressly provided for by this constitution.

Article V

LEGISLATIVE DEPARTMENT

Section 1. The legislative authority of this State shall be vested in a senate and assembly, which shall be designated "The legislature of the State of Florida," and the sessions thereof shall be held at the seat of government of the State.

Sec. 2. The sessions of the legislature shall be annual; the first session on the second Monday of June, A. D. 1868, and thereafter on the first Tuesday after the first Monday of January, commencing in the year A. D. 1869: The governor may, in the interim, convene the legislature in extra session by his proclamation.

Sec. 3. The members of the assembly shall be chosen biennially; those of the first legislature on the first Monday, Tuesday, and Wednesday of May, A. D. 1868, and thereafter on the first Tuesday after the first Monday of November, commencing with the year A. D. 1870.

Sec. 4. Senators shall be chosen for the term of four years, at the same time and place as members of the assembly: *Provided*, That the senators elected at the first election from the senatorial districts designated by even numbers shall vacate their seats at the expiration of two years, and thereafter all senators shall be elected for the term of four years, so that one-half of the whole number shall be elected biennially.

Sec. 5. Senators and members of the assembly shall be duly qualified electors in the respective counties and districts which they represent.

Sec. 6. Each house shall judge of the qualifications, elections, and returns of its own members; choose its own officers, except the president of the senate, determine the rules of its proceedings, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members present, expel a member.

Sec. 7. Either house, during the session, may punish by imprisonment any person, not a member, who shall have been guilty of disorderly or contemptuous conduct in its presence; but such imprisonment shall not extend beyond the final adjournment of the session.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the presence of absent members in such manner and under such penalties as each house may prescribe.

SEC. 9. Any person who shall be convicted of embezzlement or defalcation of the funds of this State, or of having given or offered a bribe to secure his election or appointment to office, or of having received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of honor, profit, or trust in the State; and the legislature shall, as soon as practicable, provide by law for the punishment of such embezzlement, defalcation, or bribery as a felony.

SEC. 10. Each house shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 11. The doors of each house shall be kept open during its session, except the senate while sitting in executive session; and neither shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.

SEC. 12. Any bill may originate in either house of the legislature, and after being passed in one house may be amended in the other.

SEC. 13. The enacting clause of every law shall be as follows: "*The people of the State of Florida, represented in senate and assembly, do enact as follows.*"

SEC. 14. Each law enacted in the legislature shall embrace but one subject, and matters properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be amended or revised by reference to its title only, but in such case the act as revised, or section as amended, shall be reënacted and published at length.

SEC. 15. Every bill shall be read by sections in three several days in in each house, unless, in case of emergency, two-thirds of the house where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final passage of every bill, or joint resolution, shall be taken by yeas and nays, to be entered in the journal of each house, and a majority of the members present in each house shall be necessary to pass every bill or joint resolution, and all bills or point resolutions so passed shall be signed by the presiding officers of the respective houses, and by the secretary of the senate and clerk of the assembly.

SEC. 16. No money shall be drawn from the treasury except by appropriation made by law, and accurate statements of the receipts and expenditures of the public money shall be attached to and published with the laws passed at every regular session of the legislature.

SEC. 17. The legislature shall not pass special or local laws in any of the following enumerated cases, that is to say: regulating the jurisdiction and duties of any class of officers, or for the punishment of crime or misdemeanor; regulating the practices of courts of justice; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads, town-plats, streets, alleys, and public squares; summoning and

impanelling grand and petit juries, and providing for their compensation; regulating county, township, and municipal business; regulating the election of county, township, and municipal officers; or the assessment and collection of taxes for State, county, and municipal purposes; providing for opening and conducting elections for State, county, and municipal officers, and designating the places of voting; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities; regulating the fees of officers.

SEC. 18. In all cases enumerated in the preceding section, and in all other cases where general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

SEC. 19. Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.

SEC. 20. Lotteries are hereby prohibited in this State.

SEC. 21. The legislature shall establish a uniform system of county, township, and municipal government.

SEC. 22. The legislature shall provide by general law for incorporating such municipal, educational, agricultural, mechanical, mining, and other useful companies or associations as may be deemed necessary.

SEC. 23. Laws shall be passed regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 24. Regular sessions of the legislature may extend to sixty days, but any special session convened by the governor shall not exceed twenty days.

SEC. 25. All property, both real and personal, of the wife, owned by her before marriage, or acquired afterward by gift, devise, descent, or purchase, shall be her separate property, and not liable for the debts of her husband.

SEC. 26. The legislature shall provide for the election by the people, or appointment by the governor, of all State, county, or municipal officers not otherwise provided for by this constitution, and fix by law their duties and compensation.

SEC. 27. Every bill which may have passed the legislature shall, before becoming a law, be presented to the governor; if he approves it he shall sign it, but if not, he shall return it with his objections to the house in which it originated, which house shall cause such objections to be entered upon its journals, and proceed to reconsider it; if after such reconsideration it shall pass both houses by a two-thirds vote of the members present, which vote shall be entered on the journal of each house, it shall become a law. If any bill shall not be returned within five days (Sundays excepted) after it shall have been presented to the governor, the same shall be a law, in like manner as if he had signed it. If the legislature by its final adjournment prevent such action, such bill shall be a law, unless the governor, within ten days next after the adjournment, shall file such bill with his objections thereto in the office of the secretary of state, who shall lay the same before the legislature at its next session, and if the same shall receive two-thirds of the votes present it shall become a law.

SEC. 28. The assembly shall have the sole power of impeachment, but a vote of two-thirds of all the members present shall be required to impeach any officer; and all impeachments shall be tried by the

senate when sitting for that purpose. The senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

The chief-justice shall preside at all trials by impeachment, except in the trial of the chief-justice, when the lieutenant-governor shall preside.

The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall, nevertheless, be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office; all other civil officers shall be tried for misdemeanors in office in such manner as the legislature may provide.

SEC. 29. The legislature shall elect United States Senators in the manner prescribed by the Congress of the United States and by this constitution.

SEC. 30. Laws making appropriation for the salaries of public officers, and other current expenses of the State, shall contain provisions on no other subject.

ARTICLE VI

EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of Florida.

SEC. 2. The governor shall be elected by the qualified electors at the same time and places of voting for the members of the legislature, and shall hold his office for four years from the time of his installation: *Provided*, That the term of the first governor elected under this constitution shall expire at the opening of the regular session of the legislature of A. D. 1873, and until his successor shall be qualified. He shall take the oath of office prescribed for all State officers.

SEC. 3. No person shall be eligible to the office of governor who is not a qualified elector, and who has not been nine years a citizen of the United States, and three years of the State of Florida, next preceding the time of his election.

SEC. 4. The governor shall be commander-in-chief of the military forces of the State, except when they shall be called into the service of the United States.

SEC. 5. He shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the administrative department upon any subject relating to the duties of their respective offices.

SEC. 6. He shall see that the laws are faithfully executed.

SEC. 7. When any office, from any cause, shall become vacant, and no mode is provided by this constitution or by the laws of the State for filling such vavancy, the governor shall have the power to fill such vacancy by granting a commission which shall expire at the next election.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when organized, the purpose for which they have been convened, and the legislature then shall transact no legislative business except that for which they are especially convened, or such other legislative business as the governor may call to the attention of the legislature while in session, except by the unanimous consent of both houses.

SEC. 9. He shall communicate by message to the legislature at each regular session the condition of the State, and recommend such measures as he may deem expedient.

SEC. 10. In case of a disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper, provided it is not beyond the time fixed for the meeting of the next legislature.

SEC. 11. The governor shall have power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, dating from the time of conviction, for all offences, except in cases of impeachment. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve; and if the legislature shall fail or refuse to make final disposition of such case, the sentence shall be enforced at such time and place as the governor may by his order direct. The governor shall communicate to the legislature at the beginning of every session every case of fine or forfeiture remitted or reprieved, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of its remission, commutation, pardon, or reprieve.

SEC. 12. The governor, justices of the supreme court, and attorney-general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishments, and grant pardons after conviction, in all cases except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

SEC. 13. The grants and commissions shall be in the name and under the authority of the State of Florida, sealed by the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 14. A lieutenant-governor shall be elected at the same time and places, and in the same manner, as the governor, whose term of office and eligibility shall also be the same. He shall be the president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the

president *pro tempore* of the senate shall act as governor until the office be filled or the disability cease.

SEC. 15. In the case of the impeachment of the governor, or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease; but the governor shall not, without the consent of the legislature, be out of the State in time of war.

SEC. 16. The governor may at any time require the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution, or upon any point of law, and the supreme court shall render such opinion in writing.

SEC. 17. The governor shall be assisted by a cabinet of administrative officers, consisting of a secretary of state, attorney-general, comptroller, treasurer, surveyor-general, superintendent of public instruction, adjutant-general, and commissioner of immigration. Such officers shall be appointed by the governor, and confirmed by the senate, and shall hold their offices the same time as the governor, or until their successors shall be qualified.

SEC. 18. The governor shall, by and with the consent of the senate, appoint all commissioned officers of the State militia.

SEC. 19. The governor shall appoint, by and with the consent of the senate, in each county, an assessor of taxes and collector of revenue, whose duties shall be prescribed by law, and who shall hold their offices for two years, and be subject to removal upon the recommendation of the governor and consent of the senate. The governor shall appoint in each county a county treasurer, county surveyor, superintendent of common schools, and five county commissioners, each of whom shall hold his office for two years, the duties of which shall be prescribed by law. Such officers shall be subject to removal by the governor when in his judgment the public welfare will be advanced thereby: *Provided*, No officer shall be removed except for wilful neglect of duty, or a violation of the criminal laws of the State, or for incompetency.

SEC. 20. The governor and cabinet shall constitute a board of commissioners of State institutions, which board shall have supervision of all matters connected therewith, in such manner as shall be prescribed by law.

SEC. 21. The governor shall have power, in cases of insurrection or rebellion, to suspend the writ of *habeas corpus* within the State.

ARTICLE VII

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, county courts, and justices of the peace.

SEC. 2. The style of all process shall be, "The State of Florida;" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 3. The supreme court shall consist of a chief-justice and two associate justices, who shall hold their offices for life or during good behavior. They shall be appointed by the governor and confirmed by the senate.

SEC. 4. The majority of the justices of the supreme court shall constitute a quorum for the transaction of all business. The supreme court shall hold three terms each year, in the supreme court room at the seat of government. Such terms shall commence on the second Tuesday of October, January, and April, respectively.

SEC. 5. The supreme court shall have appellate jurisdiction in all cases in equity, also in all cases of law in which is involved the title to or right of possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand or the value of the property in controversy exceeds three hundred dollars; also in all other civil cases not included in the general subdivisions of law and equity; also in all questions of law alone, in all criminal cases in which the offences charged amount to felony. The court shall have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto*, *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction.

Each of the justices shall have the power to issue writs of *habeas corpus* to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any circuit court in the State, or before any judge of said courts.

SEC. 6. The supreme court shall appoint a clerk of the supreme court, who shall have his office at the capitol, and shall be librarian of the supreme court library; he shall hold his office until his successor is appointed and qualified.

SEC. 7. There shall be seven circuit judges appointed by the governor, and confirmed by the senate, who shall hold their office for eight years. The State shall be divided into seven judicial districts, the limits of which are defined in this constitution, and one judge shall be assigned to each circuit. Such judge shall hold two terms of his court in each county within his circuit each year, at such times and places as shall be prescribed by law. The chief-justice may, in his discretion, order a temporary exchange of circuits by the respective judges, or any judge to hold one or more terms in any other circuit than that to which he is assigned. The judge shall reside in the circuit in which he is assigned.

SEC. 8. The circuit courts in their several judicial circuits shall have original jurisdiction in all cases of equity; also in all cases at law which involve the title or the right of possession to, or the possession of, or the boundaries of real property; of the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of property in controversy exceeds three hundred dollars, and of the action of forcible entry and unlawful detainer, and also in all criminal cases amounting to felony. They shall have final appellate jurisdiction in all civil cases arising in the county court in which the amount in controversy is one hundred dollars and upwards, and in all cases of misdemeanor. The circuit courts and the judges thereof shall have power to issue writs of *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs proper and necessary to the complete exercise of their jurisdiction, and also shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective circuits.

SEC. 9. There shall be a county court organized in each county.

The governor shall appoint a county judge for each county, who shall be confirmed by the senate, and such judge shall hold his office for four years from the date of his commission, or until his successor is appointed and qualified.

SEC. 10. The county court shall be a court of oyer and terminer.

SEC. 11. The county court shall have jurisdiction of all misdemeanors and all civil cases where the amount in controversy does not exceed three hundred dollars; and its jurisdiction shall be final in all civil cases where the amount in controversy does not exceed one hundred dollars; but in no case shall the county court have jurisdiction when the title or boundaries of real estate is in controversy, or where the jurisdiction will conflict with that of the several courts of record; but they may have coextensive jurisdiction with the circuit courts in cases of forcible entry and unlawful detention of real estate, subject to appeal to the circuit court. The county court shall have full surrogate or probate powers, but subject to appeal. Provision shall be made by law for all other powers, duties, and responsibilities of the county courts and judges. There shall be a regular trial-term of the county courts six times in each year, at such times and places as may be prescribed by law.

SEC. 12. The grand and petit jurors shall be taken from the registered voters of the respective counties.

SEC. 13. In all trials, civil and criminal, in the circuit and county courts, the evidence shall be reduced to writing by the clerk of the court or his deputy, under the control of the court; and every witness after his examination shall have done, shall be at liberty to correct the evidence he has given, and afterwards shall sign the same; such evidence shall be filed in the office of the clerk, with the papers in the case.

SEC. 14. All pleas shall be sworn to either by the parties or their attorneys.

SEC. 15. The governor shall appoint as many justices of the peace as he may deem necessary. Justices of the peace shall have criminal jurisdiction and civil jurisdiction not to exceed fifty dollars, but this shall not extend to the trial of any person for misdemeanor or crime. The duties of justice of the peace shall be fixed by law. Justices of the peace shall hold their offices during good behavior, subject to removals by the governor at his own discretion.

SEC. 16. The legislature may establish courts for municipal purposes only in incorporated towns and cities. All laws for the organization or government of municipal courts shall be general in their provisions, and be equally applicable to the municipal courts of all incorporated towns and cities.

SEC. 17. Any civil cause may be tried before a practising attorney as referee, upon the application of the parties, and an order from the court in whose jurisdiction the case may be authorizing such trial and appointing such referee. Such referee shall keep a complete record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the clerk, subject to an appeal in the manner prescribed by law.

SEC. 18. No other courts than those herein specified shall be organized in this State.

SEC. 19. The governor, by and with the advice and consent of the senate, shall appoint a State attorney in each judicial circuit, whose

duties shall be prescribed by law. He shall hold his office for four years from the date of his commission, and until his successor shall be appointed and qualified. The governor, by and with the advice and consent of the senate, shall appoint in each county a sheriff and clerk of the circuit court, who shall also be clerk of the county court and board of county commissioners, recorder, and *ex-officio* auditor of the county, each of whom shall hold his office for four years. Their duties shall be prescribed by law.

SEC. 20. A constable shall be elected by the registered voters in each county for every two hundred registered voters; but each county shall be entitled to at least two constables, and no county shall have more than twelve constables. They shall perform such duties and under such instructions as shall be prescribed by law.

SEC. 21. Attorneys at law, who have been admitted to practice in any court of record in any State in the Union, or to any United States court, shall be admitted to practice in any court of this State on producing evidence of having been so admitted.

ARTICLE VIII

ADMINISTRATIVE DEPARTMENT

SECTION 1. There shall be a cabinet of administrative officers, consisting of a secretary of state, attorney-general, comptroller, treasurer, surveyor-general, and superintendent of public instruction, adjutant-general, and commissioner of immigration, who shall assist the governor in the performance of his duties.

SEC. 2. The secretary of state shall keep the records of official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall be the custodian of the great seal of the State.

SEC. 3. The attorney-general shall be the legal adviser of the governor and of each of the cabinet officers, and shall perform such other legal duties as the governor may direct, or as may be provided by law. He shall be reporter for the supreme court.

SEC. 4. The treasurer shall receive and keep all funds, bonds, or other securities, in such manner as may be provided by law, and shall disburse no funds, bonds, or other securities, except upon the order of the comptroller, countersigned by the governor, in such manner as shall be prescribed by law.

SEC. 5. The duties of the comptroller shall be prescribed by law.

SEC. 6. The surveyor-general shall have the administrative supervision of all matters pertaining to the public lands, under such regulations as shall be prescribed by law.

SEC. 7. The superintendent of public instruction shall have the administrative supervision of all matters pertaining to public instruction; the supervision of buildings devoted to educational purposes, and the libraries belonging to the university and the common schools. He shall organize a historical bureau for the purpose of accumulating such matter and information as may be necessary for compiling the history of the State. He shall also establish a cabinet of minerals and other natural productions.

SEC. 8. The adjutant-general shall, under the orders of the governor, have the administrative supervision of the military department, and the supervision of State prison, and of the quarantine of the coast, in such manner as shall be prescribed by law.

SEC. 9. The commissioner of immigration shall organize a bureau of immigration for the purposes of furnishing information and for the encouragement of immigration. The office of commissioner of immigration shall expire at the end of fifteen years from the ratification of this constitution, but the legislature shall have power to continue it by law.

SEC. 10. Each officer of the cabinet shall make a full report of his official acts, of the receipts and expenditures of his office, and of the requirements of the same, to the governor, at the beginning of each regular session of the legislature, or whenever the governor shall require it. Such reports shall be laid before the legislature by the governor at the beginning of each regular session thereof. Either house of the legislature may at any time call upon any cabinet officer for information required by it.

ARTICLE IX

EDUCATION

SECTION 1. It is the paramount duty of the State to make ample provision for the education of all the children residing within its borders, without distinction or preference.

SEC. 2. The legislature shall provide a uniform system of common schools, and a university, and shall provide for the liberal maintenance of the same. Instruction in them shall be free.

SEC. 3. There shall be a superintendent of public instruction, whose term of office shall be four years, and until the appointment and qualification of his successor. He shall have general supervision of the educational interests of the State. His duties shall be prescribed by law.

SEC. 4. The common-school fund, the interest of which shall be exclusively applied to the support and maintenance of common schools and purchase of suitable libraries and apparatus therefor, shall be derived from the following sources:

The proceeds of all lands that have been or may hereafter be granted to the State by the United States for educational purposes; donations by individuals for educational purposes; appropriations by the State; the proceeds of lands or other property which may accrue to the State by escheat to forfeiture; the proceeds of all property granted to the State, when the purpose of such grant shall not be specified; all moneys which may be paid as an exemption from military duty; all fines collected under the penal laws of this State; such portion of the *per-capita* tax as may be prescribed by law for educational purposes; twenty-five per centum of the sales of public lands which are now or hereafter may be owned by the State.

SEC. 5. A special tax of not less than one mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of common schools.

SEC. 6. The principal of the common-school fund shall remain sacred and inviolate.

SEC. 7. Provision shall be made by law for the distribution of the common-school fund among the several counties of the State in proportion to the number of children residing therein between the ages of four and twenty-one years.

SEC. 8. Each county shall be required to raise annually by tax, for the support of common schools therein, a sum not less than one-half the amount apportional to each county for that year from the income of the common-school fund. Any school-district neglecting to establish and maintain for at least three months in each year such school or schools as may be provided by law for such district shall forfeit its portion of the common-school fund during such neglect.

SEC. 9. The superintendent of public instruction, secretary of state, and attorney-general, shall constitute a body-corporate, to be known as the board of education of Florida. The superintendent of public instruction shall be president thereof. The duties of the board of education shall be prescribed by the legislature.

ARTICLE X

HOMESTEAD

SECTION 1. A homestead, to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family, residing in this State, together with one thousand dollars in value of personal property, and the improvements on the real estate, shall be exempted from forced sale under any process of law, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon, or for house, field, or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residences and business houses of the owner.

SEC. 2. In addition to the exemption provided for in the first section of this article, there shall be and remain exempt from sale by any legal process in this State, to the head of a family residing in this State, such property as he or she may select to the amount of one thousand dollars; said exemption in this section shall only prevent the sale of property in cases where the debt was contracted, liability incurred, or judgment obtained before the 10th day of May, A. D. 1865. Nothing herein contained shall be so construed as to exempt any property from sale for payment of the purchase-money of the same, or for the payment of taxes or labor.

SEC. 3. The exemptions provided for in sections one and two of this article shall accrue to the heirs of the party having enjoyed or taken the benefit of such exemption, and the exemption provided for in section one of this article shall apply to all debts except as specified in said section, no matter when or where the debt was contracted or liability incurred.

Article XI

PUBLIC INSTITUTIONS

Section 1. Institutions for the benefit of the insane, blind, and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be provided by law.

Sec. 2. A State prison shall be established and maintained in such a manner as may be fixed by law. Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders, and the legislature shall have power to establish a home and workhouse for common vagrants.

Sec. 3. The respective courts of the State shall provide in the manner fixed by law for those of the inhabitants who, by reason of age, infirmity, or misfortunes, may have claims upon the aid and sympathy of society.

Article XII

MILITIA

Section 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become citizens thereof, shall constitute the militia of the State, but no male citizen of whatever religious creed or opinion shall be exempt from military duty except upon such conditions as may be prescribed by law.

Sec. 2. The legislature shall provide by law for organizing and disciplining the militia of the State, for the encouragement of volunteer corps, the safe-keeping of the public arms, and for a guard for the State prison.

Sec. 3. The adjutant-general shall have the grade of major-general. The governor, by and with the consent of the senate, shall appoint two major-generals and four brigadier-generals of militia; they shall take rank according to the date of their commissions. The officers and soldiers of the State militia, when uniformed, shall wear the uniform prescribed for the United States Army.

Sec. 4. The governor shall have power to call out the militia to preserve the public peace, to execute the laws of the State, and to suppress insurrection or repel invasion.

Article XIII

TAXATION AND FINANCE

Section 1. The legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such property as may be exempt by law for municipal, educational, literary, scientific, religious, or charitable purposes.

Sec. 2. The legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.

SEC. 3. No tax shall be levied except in pursuance of law.

SEC. 4. No moneys shall be drawn from the treasury except in pursuance of appropriation made by law.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be published with the laws of each regular session of the legislature.

SEC. 6. The legislature shall authorize the several counties and incorporated towns in the State to impose taxes for county and incorporation purposes, and for no other purpose, and all property shall be taxed upon the principle established for State taxation. The legislature may also provide for levying a specific capitation tax on licenses. But the capitation tax shall not exceed one dollar per annum for all purposes, excepting for State, county, or municipal taxes.

SEC. 7. The legislature shall have power to provide for issuing State bonds bearing interest, for securing the debt of the State, and for the erection of State buildings, support of State institutions, and perfecting public works.

SEC. 8. No tax shall be levied upon persons for the benefit of any chartered company of the State, or for paying the interest on any bonds issued by said chartered companies, counties, or corporations, for the above-mentioned purposes, and any laws to the contrary are hereby declared null and void.

ARTICLE XIV

CENSUS AND APPORTIONMENT

The legislature shall, in the year one thousand eight hundred and seventy-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State; and they shall then proceed to apportion the representation among the different counties, giving to each county one representative at large, and one additional to every one thousand registered votes therein, but no county shall be entitled to more than four representatives.

The legislature shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the assembly. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district, and all counties shall remain as now organized unless changed by a two-thirds vote of both houses of the legislature.

ARTICLE XV

SUFFRAGE AND ELIGIBILITY

SECTION 1. Every male person of the age of twenty-one years and upwards, of whatever race, color, nationality, or previous condition, or who shall, at the time of offering to vote, be a citizen of the United States, or who shall have declared his intention to become such in conformity to the laws of the United States, and who shall have resided

and had his habitation, domicile, home, and place of permanent abode in Florida for one year, and in the county for six months, next preceding the election at which he shall offer to vote, shall in such county be deemed a qualified elector at all elections under this constitution. Every elector shall, at the time of his registration, take and subscribe to the following oath:

"I, ——— ———, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and the constitution and government of Florida, against all enemies, foreign or domestic; that I will bear true faith, loyalty, and allegiance to the same, any ordinances or resolution of any State convention or legislation to the contrary notwithstanding: so help me God."

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election: nor shall any person convicted of felony be qualified to vote at any election unless restored to civil rights.

SEC. 3. At any election at which a citizen or subject of any foreign country shall offer to vote, under the provisions of this constitution, he shall present to the persons lawfully authorized to conduct and supervise such election a duly sealed and certified copy of his declaration of intention; otherwise he shall not be allowed to vote: and any naturalized citizen offering to vote, shall produce before said persons, lawfully authorized to conduce and supervise the election, his certificate of naturalization, or a duly sealed and certified copy thereof; otherwise he shall not be permitted to vote.

SEC. 4. The legislature shall have power, and shall enact the necessary laws to exclude from every office of honor, power, trust, or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election; or who shall hereafter fight a duel, or send or accept a challenge to fight, or who shall be a second to either party, or be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law.

SEC. 5. In all elections by the legislature the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

SEC. 6. The legislature at its first session after the ratification of this constitution shall by law provide for the registration, by the clerks of the circuit court in each county, of all the legally qualified voters in such county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote.

SEC. 7. The legislature shall enact laws requiring educational qualifications for electors after the year one thousand eight hundred and eighty, but no such laws shall be made applicable to any elector who may have registered or voted at any election previous thereto.

ARTICLE XVI

SCHEDULE

SECTION 1. That all ordinances and resolutions heretofore passed by any convention of the people, and all acts and resolutions of the

legislature, conflicting or inconsistent with the Constitution of the United States, and the statutes thereof, and with this constitution, and in derogation of the existence or position of the State as one of the States of the United States of America, are hereby declared null and void, and of no effect.

SEC. 2. That all acts and resolutions of the general assembly, and all official acts of the civil officers of the State, not inconsistent with the provisions of the Constitution and statutes of the United States, or with this constitution, or with any ordinance or resolution adopted by this convention, and which have not been, and are not by this constitution, annulled, are in force, and shall be considered and esteemed as the laws of the State until such acts or resolutions shall be repealed by the legislature of the State, or this convention.

SEC. 3. All laws of the State passed by the so-called general assembly since the 10th day of January, A. D. 1868, not conflicting with the word and spirit of the Constitution and laws of the United States, or with this constitution, shall be valid; all writs, acts, proceedings, judgments, and decrees of the so-called courts of the State, when actual service was made, as the defendant, all executions and sales made thereunder, and all acts, orders, and proceedings of the judges of probate, and of executors, administrators, guardians, and trustees, provided they were in conformity with the laws then in force, and did not conflict with the Constitution and laws of the United States and this constitution, shall be valid; the sales of the property or effects of deceased persons shall not prevent the widow from claiming said property in kind, in whosesoever hands the same may be found, where the sale had not been made for the purpose of paying the debts of deceased, and where other than lawful money of the United States was obtained for said property.

Nothing herein contained shall be so construed as to make any one who was an officer of any court, or who acted under the authority of any court, individually liable, provided they acted strictly in accordance with what was then considered the law of the State, and not conflicting with the Constitution and laws of the United States.

All fines, penalties, forfeitures, obligations, and escheats heretofore accruing to the State of Florida shall continue to accrue to the use of the State.

All recognizances heretofore taken shall remain valid, and all bonds executed to the governor of the State of Florida, either before or since the 10th day of January, A. D. 1861, or to any other officer of the State, in his official capacity, shall be of full force and virtue, for the uses therein respectively expressed, and may be sued for and recovered accordingly, unless they were contrary to the laws of the United States or to this constitution, or to any ordinance or resolution adopted by the convention; also, all criminal prosecutions which have arisen may be prosecuted to judgment and execution in the name of the State.

All actions at law or suits in chancery, or any proceedings pending in the courts of this State, either prior to or subsequent to the 10th day of January, A. D. 1861, shall continue in all respects valid, and may be prosecuted to judgment and decree.

All judgments and decrees rendered in civil causes in any of the courts of the State during the period of time above specified are hereby declared of full force, validity, and effect: *Provided*, That,

unless otherwise provided in this constitution, the statute of limitation shall not be pleaded upon any claim in the hands of any person for the period of time between the 10th day of January, A. D. 1861, and the 25th day of October, 1865, whether proceedings at law had been commenced before the 25th day of October, 1865, or not: *Provided, further*, That all claims of widows, minors, and decedents, which were not barred by the statutes of this State on the 10th day of January, 1861, shall be considered good and valid for the period of two years from the ratification of this constitution.

SEC. 4. That State treasury notes, all bonds issued, and all other liabilities contracted by the State of Florida, or any county or city thereof, on and after the 10th day of January, A. D. 1861, and before the 25th day of October, A. D. 1865, except such liabilities as may be due to the seminary or school fund, be and are declared null and void, and the legislature shall have no power to provide for the payment of the same or any part thereof, but this shall not be construed so as to invalidate any authorized liabilities of the State contracted prior to the 10th day of January, A. D. 1861, or subsequent to the 25th day of October, A. D. 1865.

SEC. 5. No money shall ever be appropriated by this State to reimburse purchasers of United States land who purchased the same of the State of Florida.

SEC. 6. All proceedings, decisions, or actions accomplished by civil or military officers acting under authority of the United States subsequent to the 10th day of January, 1861, and prior to the final restoration of the State to the Government of the United States, are hereby declared valid, and shall not be subject to adjudication in the courts of this State; nor shall any person acting in the capacity of a soldier or officer of the United States, civil or military, be subject to arrest for any act performed by him pursuant to authorized instructions from his superior officers during the period of time above designated.

SEC. 7. That in all cases where judgments have been obtained against citizens of the State after the 10th day of January, 1861, previous to the 25th day of October, 1865, and where actual service was not made on the person of any defendant, such defendant, not served with process, may appear in court within one year after the adoption of this constitution, and make oath that injustice has been done and that he or she has a good and valid defence, stating the defence, and upon making such oath and filing said defence, the proceedings in the judgment shall cease until the defence is heard.

ARTICLE XVII

MISCELLANEOUS

SECTION 1. Any person debarred from holding office in the State of Florida by the third section of the fourteenth article of the proposed amendment to the Constitution of the United States, which is as follows: "No person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an

officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability," is hereby debarred from holding office in this State: *Provided*, That whenever such disability from holding office shall be removed from any person by the Congress of the United States, the removal of such disability shall also apply to this State, and such person shall be restored, in all respects, to the rights of citizenship as herein provided for electors.

SEC. 2. Any person elected to the Senate of the United States by the legislature of this State, or any person elected by the people, or appointed to office by the governor of the State, or by any officer of the State, under the provisions of the constitution adopted by the convention of the people, convened on the 25th day of October, 1865, shall not be empowered to hold such office after the same position or office shall have been filled by election or appointment under the provisions of this constitution: *Provided*, That all officers holding office under the provisions of the constitution adopted the 25th day of October, A. D. 1865, and not provided for in this constitution, shall continue to hold their respective offices, and discharge the duties thereof, until the governor shall, by his proclamation, declare such offices vacant.

SEC. 3. The several judicial circuits of the circuit courts shall be as follows: The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington, and Jackson; the second judicial circuit shall be composed of the counties of Gadsden, Liberty, Calhoun, Franklin, Leon, Wakulla, and Jefferson; the third judicial circuit shall be composed of the counties of Madison, Taylor, La Fayette, Hamilton, Suwannee, and Columbia; the fourth judicial circuit shall be composed of the counties of Nassau, Duval, Baker, Bradford, Clay, and Saint John's; the fifth judicial circuit shall be composed of the counties of Putnam, Alachua, Levy, Marion, and Sumter; the sixth judicial circuit shall be composed of the counties of Hernando, Hillsborough, Manatee, Polk, and Monroe; the seventh judicial circuit shall be composed of the counties of Volusia, Brevard, Orange, and Dade.

SEC. 4. The salary of the governor of the State shall be $5,000 per annum; that of the chief-justice shall be $4,500; that of each associate justice shall be $4,000; that of each judge of the circuit court shall be $3,500; that of the lieutenant-governor shall be $2,500; that of each cabinet officer shall be $3,000. The pay of the members of the senate and house of representatives shall be $500 per annum, and in addition thereto ten cents per mile for each mile traveled from their respective places of residence to the capital, and the same to return. But such distances shall be estimated by the shortest general public thoroughfare. All other officers of the State shall be paid by fees as per diem fixed by law.

SEC. 5. The legislature shall appropriate $2,000 each year for the purchase of such books for the supreme court library as the said court shall direct.

SEC. 6. The salary of each officer shall be payable quarterly upon his own requisition.

SEC. 7. The tribe of Indians located in the southern portion of the State, and known as the Seminole Indians, shall be entitled to one member in each house of the legislature. Such member shall have all the rights, privileges, and remuneration as other members of the legislature. Such members shall be elected by the members of their tribe, in the maner prescribed for all elections by this constitution. The tribe shall be represented only by a member of the same, and in no case by a white man: *Provided*, That the representatives of the Seminole Indians shall not be a bar to the representation of any county by the citizens thereof.

SEC. 8. The legislature may at any time impose such tax on the Indians as they may deem proper; and such imposition of tax shall constitute the Indians citizens, and they shall thenceforward be entitled to all the privileges of other citizens, and thereafter be barred of special representation.

SEC. 9. In addition to other crimes and misdemeanors for which an officer may be impeached and tried, shall be included drunkenness and other dissipations; incompetency, malfeasance in office, gambling, or any conduct detrimental to good morals shall be considered sufficient cause for impeachment and conviction. Any officer, when impeached by the assembly, shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the senate. But any officer so impeached and in arrest may demand his trial by the senate within ten days of the date of his impeachment.

SEC. 10. The following shall be the oath of office for each officer in the State, including members of the legislature: "I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and of the State of Florida, against all enemies, domestic or foreign, and that I will bear true faith, loyalty, and allegiance to the same, and that I am entitled to hold office under this constitution; that I will well and faithfully perform all the duties of the office of ———, which I am about to enter: so help me God."

SEC. 11. The legislature may provide for the donation of the public lands to actual settlers; but such donation shall not exceed one hundred and sixty acres to any one person.

SEC. 12. All county officers shall hold their respective offices at the county seats of their counties.

SEC. 13. The legislature shall provide for the speedy publication of all statutes and laws of general nature. All decisions of the supreme court, and all laws and judicial decisions, shall be for free publication by any person. But no judgment of the supreme court shall take effect and be operative until the opinion of the court in such case shall be filed with the clerk of said court.

SEC. 14. The legislature shall not create any office, the term of which shall be longer than four years.

SEC. 15. The governor, cabinet, and supreme court shall keep their offices at the seat of government. But in case of invasion or violent epidemics, the governor may direct that the offices of the government shall be removed temporarily to some other place. The session of the legislature may be adjourned for the same cause to some other

place; but in such case of removal all the departments of the government shall be removed to one place. But such removal shall not continue longer than the necessity for the same shall continue.

SEC. 16. A plurality of votes given at an election by the people shall constitute a choice when not otherwise provided by this constitution.

SEC. 17. The term of the State officers elected at the first election under this constitution, not otherwise provided for, shall continue until the first Tuesday of January, A. D. 1873, and until the installation of their successors, excepting the members of the legislature.

SEC. 18. Each county and incorporated city shall make provision for the support of its own officers, subject to such regulations as may be prescribed by law. Each county shall make provision for building a court-house and jail, and for keeping the same in good repair.

SEC. 19. If at the meeting of the senate at any session the lieutenant-governor has not been qualified or is not present, the senate shall elect one of its members as temporary president before proceeding to other business.

SEC. 20. The legislature shall at the first session adopt a seal for the State, and such seal shall be of the size of the American silver dollar. But said seal shall not again be changed after its adoption by the legislature; and the governor shall, by his proclamation, announce that the said seal has become the great seal of the State.

SEC. 21. The governor, lieutenant-governor, and all the State officers elected by the people shall be installed on the first day of the meeting of the legislature, and immediately assume the duties of their respective offices.

SEC. 22. The governor and lieutenant-governor shall have been, before their election to office, nine years a citizen of the United States, and three years a citizen of the State. All other officers shall have been one year a citizen of the State, and six months a citizen of the county from which they are elected or appointed. No person shall be eligible to any office unless he be a registered voter.

SEC. 23. The governor or any State officer is hereby prohibited from giving certificates of election or other credentials to any person as having been elected to the House of Representatives of the United States Congress, or the United States Senate, who has not been two years a citizen of the State, and nine years a citizen of the United States, and a registered voter.

SEC. 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such corporation be for religious, educational, or charitable purposes.

SEC. 25. All bills, bonds, notes, or evidences of debt outstanding and unpaid, given for or in consideration of bonds or treasury-notes of the so-called Confederate States, or notes and bonds of this State paid and redeemable in the bonds and notes of the Confederate States, are hereby declared null and void, and no action shall be maintained thereon in the courts of this State.

SEC. 26. It shall be the duty of the courts to consider that there is a failure of consideration, and it shall be so held by the courts of this State, upon all deeds or bills of sale given for slaves with covenant or warrantee of title or soundness, or both; upon all bills, bonds, notes,

or other evidences of debt, given for or in consideration of slaves, which are now outstanding and unpaid, and no action shall be maintained thereon; and all judgments and decrees rendered in any of the courts of this State since the 10th day of January, A. D. 1861, upon all deeds or bills of sale, or upon any bond, bill, note, or other evidence of debt based upon the sale or purchase of slaves, are hereby declared set aside, and the plea of failure of consideration shall be held a good defence in all actions to said suit; and that when money was due previous to the 10th day of January, 1861, and slaves were given in consideration for such money, these shall be deemed a failure of consideration for the debt: *Provided*, That settlements and compromises of such transaction made by the parties thereto shall be respected.

SEC. 27. All persons who, as alien enemies under the sequestration act of the so-called confederate congress, and now resident of the State, had property sequestered and sold by any person acting under a law of the so-called Confederate States, or the State of Florida, subsequent to the 10th day of January, A. D. 1861, and prior to the 1st day of January, 1865, shall be empowered to file a bill in equity in the circuit court of the State, and shall be entitled to obtain judgment against the State for all damages sustained by said sale and detention of property. The court shall estimate the damages upon the assessed valuation of the property in question in the year A. D. 1870, with interest at six per cent. from the time the owner was deprived of the same.

But all judgments against the State shall be paid only in certificates of indebtedness, redeemable in State lands. Said certificates shall be issued by the governor, countersigned by the secretary of state and by the comptroller, upon the decree of the court. Oral testimony shall be sufficient to establish the fact of a sale having been made.

SEC. 28. There shall be no civil or political distinction in this State on account of race, color, or previous condition of servitude, and the legislature shall have no power to prohibit by law any class of persons, on account of race, color, or previous condition of servitude, to vote or hold any office, beyond the conditions prescribed by this constitution.

SEC. 29. The apportionment for the assembly shall be as follows: Escambia, two; Santa Rosa, one; Walton, one; Holmes, one; Washington, one; Jackson, three; Calhoun, one; Gadsden, two; Franklin, one; Liberty, one; Wakulla, one, Leon, four; Jefferson, three; Madison, two; Taylor, one; Hamilton, one; Suwannee, one; La Fayette, one; Alachua, two; Columbia, two; Baker, one; Bradford, one; Nassau, one; Duval, two; Clay, one; Saint John's one; Putnam, one; Marion, two; Levy, one; Volusia, one; Orange, one; Brevard, one; Dade, one; Hillsborough, one; Hernando, one; Sumter, one; Polk, one; Manatee, one, and Monroe, one. There shall be twenty-four senatorial districts, which shall be as follows, and shall be known by their respective numbers from one to twenty-four inclusive: The first senatorial district shall be composed of Escambia county; the second of Santa Rosa and Walton; the third, of Jackson; the fourth, of Volusia and Washington; the fifth, of Calhoun and Franklin; the sixth, of Gadsden; the

seventh, of Liberty and Wakulla; the eighth, of Leon; the ninth, of Jefferson; the tenth, of Madison; the eleventh, of Hamilton and Suwannee; the twelfth, of La Fayette and Taylor; the thirteenth, of Alachua and Levy; the fourteenth, of Columbia; the fifteenth, of Bradford and Clay; the sixteenth, of Baker and Nassau; the seventeenth, of Saint John's and Putnam; the eighteenth, of Duval; the nineteenth, of Marion; the twentieth, of Volusia and Orange; the twenty-first, of Dade and Brevard; the twenty-second, of Hillsborough and Hernando; the twenty-third, of Sumter and Polk; the twenty-fourth, of Manatee and Monroe; and each senatorial district shall be entitled to one senator.

SEC. 30. No person shall ever be appointed a judge of the supreme court or circuit court who is not twenty-five years of age and practising attorney.

SEC. 31. The legislature shall, as soon as convenient, adopt a State emblem, having the design of the great seal of the State impressed upon a white ground, of six feet six inches fly and six feet deep.

ARTICLE XVIII

AMENDMENTS

Any amendment or amendments to this constitution may be proposed in either branch of the legislature; and if the same shall be agreed upon by a two-thirds vote of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice; and if, in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a two-thirds vote of all the members elected to each house, then it should be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature may prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become a part of the constitution.

SEC. 2. If at any time the legislature, by a vote of a majority of all the members elected to each of the two houses, shall determine that it is necessary to cause a revision of this entire constitution, such determination shall be entered on their respective journals, with the yeas and nays thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice.

And if in the legislature next chosen aforesaid such proposed revision shall be agreed by a majority of all the members elected to each house, then it shall be the duty of the legislature to recommend to the electors of the next election for members of the legislature to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the legislature shall, at its next session,

provide by law for a convention, to be holden within six months after the passage of such law, and such convention shall consist of a number of members not less than both branches of the legislature.

In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

Done in open convention. In witness whereof, we, the undersigned delegates, representing the people of Florida, in convention assembled, do hereunto affix our names this twenty-fifth day of February, one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second, and the secretary doth countersign the same.

HORATIO JENKINS, JR., *President.*

S. CONANT, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868[a]

(Ratified 1870)

ARTICLE I. The salary of the governor of the State shall be three thousand five hundred dollars per annum: that of each justice of the supreme court shall be three thousand dollars; that of each judge of the circuit courts shall be two thousand five hundred dollars; that of each cabinet officer shall be two thousand dollars; that of the lieutenant-governor shall be five hundred dollars, and he shall receive the same mileage as members of the legislature. The pay of members of the legislature shall be a per diem, to be fixed by law, for each day's actual attendance, and in addition thereto ten cents per mile for travelling-expenses for each mile from their respective places of residence to the capital, estimated by the shortest thoroughfare, and the same to return. All other officers of the State shall be paid by fees or per diem, fixed by law. No legislature shall increase its own pay.

ART. II. The several members of the cabinet of administrative officers shall be elected by the people.

ART. III. The sixth and seventh judicial districts are hereby abolished, and the limits of the first, second, third, fourth, and fifth judicial districts shall be defined by law.

ART. IV. The offices of surveyor-general and commissioner of immigration are hereby consolidated under the name of commissioner of lands and immigration.

ART. V. The thirteenth section of the sixth article of the constitution is hereby abrogated.

ART. VI. The third, fifth, and twenty-seventh sections of the sixteenth article of the constitution are hereby abrogated.

ART. VII. The number of terms of the supreme court, and the time of holding the same, shall be fixed by law.

ART. VIII. The legislature shall have power to prescribe regulations for calling into the supreme court a judge of the circuit court, to hear and determine any matter pending before the court, in the place

[a] These amendments were passed at two successive sessions of the legislature, and then ratified by the people.

of any justice thereof who shall be disqualified or disabled in such case from interest or other cause.

ART. IX. That the following portion of section nine, Article XVI, of the constitution is hereby abrogated:

"Any officer when impeached by the assembly shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the senate; but any officer so impeached and in arrest may demand his trial by the senate within one year from the date of his impeachment."

(Ratified 1875)

ARTICLE I. Section two of article four of the constitution is hereby amended so as to read as follows:

SEC. 2. From and after the first Tuesday after the first Monday in January, A. D. one thousand eight hundred and seventy-seven, the regular sessions of the legislature shall be held biennially, commencing on said day and on the corresponding day of every second year thereafter, but the governor may convene the same in extra session by his proclamation.

ART. II. Section twenty-nine of article four of the constitution is hereby amended so as to read as follows:

SEC. 29. The assembly shall have the sole power of impeachment, but a vote of two-thirds of all the members present shall be required to impeach any officer, and all impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present. The senate may adjourn to a fixed day for the trial of any impeachment, and may sit for the purpose of such trial whether the assembly be in session or not, but the time fixed for such trial shall not be more than six months from the time articles of impeachment shall be preferred by the assembly. The chief-justice shall preside at all trials by impeachment except in the trial of the chief-justice, when the lieutenant-governor shall preside. The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court, shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State, but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor, and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office. All other civil officers shall be tried for misdemeanor in office in such manner as the legislature may provide.

ART. III. Section seven of article twelve of the constitution is hereby amended so as to read as follows:

SEC. 7. The legislature shall have power to provide for issuing State bonds bearing interest for securing the debt of the State, for the erection of State buildings, and for the support of State institutions, but the credit of the State shall not be pledged or loaned to any

individual company, corporation, or association; nor shall the State become a joint owner or stockholder in any company, association, or corporation. The legislature shall not authorize any county, city, borough, township, or incorporated district to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution, or individual.

ART. IV. Section five of article six of the constitution is hereby amended so as to read as follows:

SEC. 5. The supreme court shall have appellate jurisdiction in all cases at law and in equity commenced in circuit courts and of appeal from the circuit court in cases arising in the county court as a court of probate, and in the management of the estates of infants, and in all criminal cases commenced in the circuit court. The court shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, and also all writs necessary or proper to the complete exercise of its jurisdiction. Each of the justices shall have the power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or any justice thereof, or before any circuit judge.

Section eight of article six of the constitution is hereby amended so as to read as folows:

SEC. 8. The circuit courts shall have original jurisdiction in all cases in equity, also in all cases at law in which the demand or the value of the property involved exceeds one hundred dollars, and of all cases involving the legality of any tax assessment, toll, or municipal fine, and of the action of forcible entry and unlawful detainer, and of actions involving the titles or right of possession of real estate, and of all criminal cases, except such as may be cognizable by law by inferior courts. They shall have appellate jurisdiction of matters pertaining to the probate jurisdiction and the estates and interests of minors in the county courts, and of such other matters as may be provided by law, and final appellate jurisdiction in all civil cases arising in the court of a justice of the peace in which the amount or value of property involved is twenty-five dollars and upwards, and of misdemeanors tried before any justice's or mayor's court. The circuit courts and judges shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, habeas corpus, and all writs proper and necessary to the complete exercise of their jurisdiction.

Section ten of article six of the constitution is hereby abrogated.

Section eleven of article six of the constitution is hereby amended so as to read as follows:

SEC. 11. The county court shall have power to take probate of wills, to grant letters testamentary, and of administration and guardianship, to attend to the settlement of the estates of decedents and of minors, and to discharge the duties usually pertaining to courts of probate, subject to the direction and supervision of the appellate and equity jurisdiction of the circuit court as may be provided by law. And the county judges shall have and exercise the civil and criminal jurisdiction of justices of the peace. They may also have jurisdiction of such proceedings relating to the forcible entry or unlawful detention of lands and tenements subject to the appellate jurisdiction of the circuit court as may be provided by law.

Section fifteen of article six of the constitution is hereby amended so as to read as follows:

SEC. 15. The governor shall appoint as many justices of the peace as he may deem necessary. Justices of the peace shall have jurisdiction in civil actions at law in cases in which the amount or value involved does not exceed one hundred dollars; and in criminal cases their powers shall be fixed by law. Their powers, duties, and responsibilities shall be regulated by law. They may hold their offices for the term of four years, subject to removal by the governor for reasons satisfactory to him.

ART. V. Section seven of article six of the constitution is hereby amended so as to read as follows:

SEC. 7. There shall be five circuit judges appointed by the governor and confirmed by the senate, who shall hold their respective offices for the term of six years from the time of their qualification. The State shall be divided into five judicial circuits as defined in this constitution, and the judge of each circuit shall reside in the circuit to which he shall be appointed. Each judge shall hold the terms of the court at such times and places as may be prescribed by law, and he may hold special terms with or without juries. The chief-justice may, in his discretion, order a temporary exchange of circuits by the respective judges, or designate any judge to hold a general or special term, or part of a term, in any other circuit than that one in which he resides.

Section three of article sixteen of the constitution is hereby amended so as to read as follows:

SEC. 3. The several judicial circuits of the circuit courts shall be as follows:

The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington, Jackson, Calhoun, and Franklin.

The second judicial circuit shall be composed of the counties of Liberty, Gadsden, Leon, Wakulla, Jefferson, Madison, Taylor, and La Fayette.

The third judicial circuit shall be composed of the counties of Hamilton, Suwannee, Columbia, Baker, Bradford, Alachua, and Levy.

The fourth judicial circuit shall be composed of the counties of Nassau, Duval, Clay, Saint Johns, Putnam, Volusia, Orange, Brevard, and Dade.

The fifth judicial circuit shall be composed of the counties of Marion, Sumpter, Hernando, Hillsborough, Polk, Manatee, and Monroe.

ART. VI. Section twelve of article six of the constitution is hereby amended so as to read as follows:

SEC. 12. Grand and petit jurors shall be taken from the registered voters of the respective counties. The number of jurors for the trial of causes in any court may be fixed by law.

ART. VII. Sections seven and eight of article sixteen of the constitution are hereby abrogated.

ART. VIII. Section twenty-four of article sixteen of the constitution is hereby amended so as to read as follows:

SEC. 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such

property be held and used exclusively for religious, educational, or charitable purposes.

ART. IX. Section twenty-two of article five of the constitution shall read as follows:

SEC. 22. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

ART. X. Section fourteen of article five of the constitution is hereby amended so as to read as follows:

SEC. 14. A lieutenant-governor shall be elected at the same time and places and in the same manner as the governor, whose term of office and eligibility shall also be the same. He shall be the president of the senate, but shall only have a casting vote therein. In the case of the impeachment of the governor or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. In the case of the impeachment of the lieutenant-governor or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the president *pro tempore* of the senate.

In case a vacancy shall occur both in the offices of governor and lieutenant-governor, the legislature shall at its next session order an election to fill such vacancies. But the governor shall not, without the consent of the legislature, be out of the State in time of war.

Section fifteen of article five of the constitution is hereby abrogated.

ART. XI. Section sixteen of article five of the constitution is hereby amended so as to read as follows:

SEC. 16. The governor may at any time require the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting his executive powers and duties, and the justices shall render such opinion in writing.

CONSTITUTION OF FLORIDA—1885 *

PREAMBLE

We, the people of the State of Florida, grateful to Almighty God for our constitutional liberty, in order to secure its blessings and to form a more perfect government, insuring domestic tranquility,

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* This constitution was framed by a convention which met at Tallahassee June 9, 1885, and completed its labors August 3, 1885. It was submitted to the people and ratified.

Verified by a copy of the constitution supplied by Hon. John L. Crawford, Secretary of State. Published Tallahassee, Fla.: 1889. Floridian Steam Printing House, N. M. Bowen, proprietor.

See also "Journal of the Proceedings of the Constitutional Convention of the State of Florida which convened at the capitol, at Tallahassee, on Tuesday, June 8, 1885. Tallahassee, Fla.: N. M. Bowen, State Printer, 1885." pp. 589–627.

See also Constitution of the State of Florida, adopted by the Convention of 1885. [As amended.] E. O. Painter & Co., printers, De Land, Florida. 1898. 111 pp.

maintaining public order, and guaranteeing equal civil and political rights to all, do ordain and establish this Constitution.

DECLARATION OF RIGHTS

SECTION 1. All men are equal before the law, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing happiness and obtaining safety.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the citizens, and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the Federal Government, and the people of this State have no power to dissolve its connection therewith.

SEC. 3. The right of trial by jury shall be secured to all, and remain inviolate forever.

SEC. 4. All courts in this State shall be open, so that every person for any injury done him in his lands, goods, person or reputation shall have remedy, by due course of law, and right and justice shall be administered without sale, denial or delay.

SEC. 5. The free exercise and enjoyment of religous profession and worship shall forever be allowed in this State, and no person shall be rendered incompetent as a witness on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness or practices subversive of, or inconsistent with, the peace or moral safety of the State or society.

SEC. 6. No preference shall be given by law to any church, sect or mode of worship, and no money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect or religious denomination, or in aid of any sectarian institution.

SEC. 7. The writ of *habeas corpus* shall be grantable speedily and of right, freely and without cost, and shall never be suspended unless, in case of rebellion or invasion, the public safety may require its suspension.

SEC. 8. Excessive bail shall not be required, nor excessive fines be imposed, nor cruel or unusual punishment or indefinite imprisonment be allowed, nor shall witnesses be unreasonably detained.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great.

SEC. 10. No person shall be tried for a capital crime or other felony, unless on presentment or indictment by a grand jury, except as is otherwise provided in this Constitution, and except in cases of impeachment, and in cases in the militia when in active service in time of war, or which the State, with the consent of Congress, may keep, in time of peace.

SEC. 11. In all criminal prosecutions the accused shall have the right to a speedy and public trial, by an impartial jury, in the county where the crime was committed, and shall be heard by himself, or counsel, or both, to demand the nature and cause of the accusation against him, to meet the witnesses against him face to face, and have compulsory process for the attendance of witnesses in his favor, and shall be furnished with a copy of the indictment against him.

Sec. 12. No person shall be subject to be twice put in jeopardy for the same offense, nor compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken without just compensation.

Sec. 13. Every person may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libel the truth may be given in evidence to the jury, and if it shall appear that the matter charged as libellous is true, and was published for good motives, the party shall be acquitted or exonerated.

Sec. 14. No person shall be compelled to pay costs except after conviction, on a final trial.

Sec. 15. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

Sec. 16. No person shall be imprisoned for debt except in cases of fraud.

Sec. 17. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed.

Sec. 18. Foreigners shall have the same rights as to the ownership, inheritance and disposition of property in this State as citizens of the State.

Sec. 19. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party has been duly convicted, shall ever be allowed in this State.

Sec. 20. The right of the people to bear arms in defence of themselves and the lawful authority of the State, shall not be infringed, but the Legislature may prescribe the manner in which they may be borne.

Sec. 21. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 22. The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches, shall not be violated, and no warrants issued but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.

Sec. 23. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or confession in open court, and no conviction for treason shall work corruption of blood or forfeiture of estate.

Sec. 24. This enunciation of rights shall not be construed to impair or deny others retained by the people.

Article I

BOUNDARIES

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the

middle of said river to where it intersects the south boundary line of the State of Alabama, and the thirty-first degree of north latitude; thence due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river; thence straight to the head of the St. Marys river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf stream; thence southwestwardly along the edge of the Gulf stream and Florida Reefs to and including the Tortugas Islands; thence northeastwardly to a point three leagues from the mainland; thence northwestwardly three leagues from the land, to a point west of the mouth of the Perdido river; thence to the place of beginning.

Article II

DISTRIBUTION OF POWERS

The powers of the government of the State of Florida shall be divided into three departments—Legislative, Executive and Judicial; and no person properly belonging to one of the departments shall exercise any powers appertaining to either of the others, except in cases expressly provided for by this Constitution.

Article III

LEGISLATIVE DEPARTMENT

Section 1. The Legislative authority of this State shall be vested in a Senate and a House of Representatives, which shall be designated, "The Legislature of the State of Florida," and the sessions thereof shall be held at the seat of government of the State.

Sec. 2. The regular sessions of the Legislature shall be held biennially, commencing on the first Tuesday after the first Monday in April, A. D., 1887, and on the corresponding day of every second year thereafter, but the Governor may convene the same in extra session by his proclamation. Regular sessions of the Legislature may extend to sixty days, but no special session convened by the Governor shall exceed twenty days.

Sec. 3. The members of the House of Representatives shall be chosen biennially, those of the first Legislature on the first Tuesday after the first Monday in November, A. D., 1886, and thereafter on the corresponding day of every second year.*

Sec. 4. Senators and members of the House of Representatives shall be duly qualified electors in the respective counties and districts for which they were chosen. The pay of members of the Senate and House of Representatives shall not exceed six dollars a day for each day of session, and mileage to and from their homes to the seat of government, not to exceed ten cents a mile each way, by the nearest and most practicable route.

Sec. 5. No Senator or member of the House of Representatives shall, during the time for which he was elected, be appointed or elected to any civil office under the Constitution of this State, that has

* See Amendment, 1896.

been created, or the emoluments whereof shall have been increased during such time.

SEC. 6. Each House shall judge of the qualifications, elections and returns of its own members, choose its own officers, and determine the rules of its proceedings. The Senate shall, at the convening of each regular session thereof, choose from among its own members a permanent President of the Senate, who shall be its presiding officer. The House of Representatives shall, at the convening of each regular session thereof, choose from among its own members a permanent Speaker of the House of Representatives, who shall be its presiding officer. Each House may punish its own members for disorderly conduct; and each House, with the concurrence of two-thirds of all of its members present, may expel a member.

SEC. 7. No person holding a lucrative office or appointment under the United States or this State, shall be eligible to a seat in the Legislature of this State.

SEC. 8. The seat of a member of either House shall be vacated on his permanent change of residence from the district or county from which he was elected.

SEC. 9. Either House during the session may punish by fine or imprisonment any person not a member who shall have been guilty of disorderly or contemptuous conduct in its presence, or of a refusal to obey its lawful summons, but such imprisonment shall not extend beyond the final adjournment of the session.

SEC. 10. Either House shall have power to compel the attendance of witnesses upon any investigations held by itself, or by any of its committees; the manner of the exercise of such power shall be provided by law.

SEC. 11. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the presence of absent members in such manner and under such penalties as it may prescribe.

SEC. 12. Each House shall keep a Journal of its own proceedings, which shall be published, and the yeas and nays of the members of either House on any question shall, at the desire of any five members present, be entered on the Journal.

SEC. 13. The doors of each House shall be kept open during its session, except the Senate while sitting in Executive session; and neither shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.

SEC. 14. Any bill may originate in either House of the Legislature, and after being passed in one House may be amended in the other.

SEC. 15. The enacting clause of every law shall be as follows: "Be it enacted by the Legislature of the State of Florida."

SEC. 16. Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section, as amended, shall be re-enacted and published at length.

SEC. 17. Every bill shall be read by sections on three several days in each House, unless, in case of emergency, two-thirds of the House where such bill may be pending shall deem it expedient to dis-

pense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with, and the vote on the final passage of every bill or joint resolution shall be taken by yeas and nays, to be entered on the Journal of each House; *Provided*, That any general revision of the entire laws embodied in any bill shall not be required to be read by sections upon its final passage, and its reading may be wholly dispensed with by a two-thirds vote; and a majority of the members present in each House shall be necessary to pass every bill or joint resolution; and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective Houses, and by the Secretary of the Senate and the Clerk of the House of Representatives.*

SEC. 18. No law shall take effect until sixty days from the final adjournment of the session of the Legislature at which it may have been enacted, unless otherwise specially provided in such law.

SEC. 19. Accurate statements of the receipts and expenditures of the public money shall be attached to and published with the laws passed at every regular session of the Legislature.

SEC. 20. The Legislature shall not pass special or local laws in any of the following enumerated cases: that is to say, regulating the jurisdiction and duties of any class of officers, except municipal officers, or for the punishment of crime or misdemeanor; regulating the practice of courts of justice, except municipal courts; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads; summoning and empanneling grand and petit juries, and providing for their compensation; for assessment and collection of taxes for State and county purposes; for opening and conducting elections for State and county officers, and for designating the places of voting; for the sale of real estate belonging to minors, estates of decedents, and of persons laboring under legal disabilities; regulating the fees of officers of the State and county; giving effect to informal or invalid deeds or wills; legitimizing children; providing for the adoption of children; relieving minors from legal disabilities; and for the establishment of ferries.

SEC. 21. In all cases enumerated in the preceding section all laws shall be general and of uniform operation throughout the State, but in all cases not enumerated or excepted in that section, the Legislature may pass special or local laws; *Provided*, That no local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least sixty days prior to the introduction into the Legislature of such bill, and in the manner to be provided by law. The evidence that such notice has been published shall be established in the Legislature before such bill shall be passed.

SEC. 22. Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.

SEC. 23. Lotteries are hereby prohibited in this State.

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* See amendment, 1896.

SEC. 24. The Legislature shall establish a uniform system of county and municipal government, which shall be applicable, except in cases where local or special laws are provided by the Legislature that may be inconsistent therewith.

SEC. 25. The Legislature shall provide by general law for incorporating such educational, agricultural, mechanical, mining and other useful companies or associations as may be deemed necessary.

SEC. 26. Laws shall be passed regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult or other improper practice.

SEC. 27. The Legislature shall provide for the election by the people or appointment by the Governor of all State and county officers not otherwise provided for by this Constitution, and fix by law their duties and compensation.

SEC. 28. Every bill that may have passed the Legislature shall, before becoming a law, be presented to the Governor: if he approves it he shall sign it, but if not he shall return it with his objections to the House in which it originated, which House shall cause such objections to be entered upon its Journal, and proceed to reconsider it; if, after such reconsideration, it shall pass both Houses by a two-thirds vote of members present, which vote shall be entered on the Journal of each House, it shall become a law. If any bill shall not be returned within five days after it shall have been presented to the Governor (Sunday excepted) the same shall be a law, in like manner as if he had signed it. If the Legislature, by its final adjournment, prevent such action, such bill shall be a law, unless the Governor, within ten days after the adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the Legislature at its next session, and if the same shall receive two-thirds of the votes present, it shall become a law.

SEC. 29. The House of Representatives shall have the sole power of impeachment; but by a vote of two-thirds of all members present shall be required to impeach any officer; and all impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the Senators present. The Senate may adjourn to a fixed day for the trial of any impeachment, and may sit for the purpose of such trial whether the House of Representatives be in session or not, but the time fixed for such trial shall not be more than six months from the time articles of impeachment shall be preferred by the House of Representatives. The Chief-Justice shall preside at all trials by impeachment except in the trial of the Chief-Justice, when the Governor shall preside. The Governor, Administrative officers of the Executive Department, Justices of the Supreme Court and Judges of the Circuit Court shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment according to law.

SEC. 30. Laws making appropriations for the salaries of public officers and other current expenses of the State shall contain provisions on no other subject.

SEC. 31. The Legislature shall elect United States Senators in the manner prescribed by the Congress of the United States and by this Constitution.

SEC. 32. The repeal or amendment of any Criminal Statute shall not affect the prosecution or punishment of any crime committed before such repeal or amendment.

SEC. 33. No statute shall be passed lessening the time within which a civil action may be commenced on any cause of action existing at the time of its passage.

ARTICLE IV

EXECUTIVE DEPARTMENT

SECTION 1. The Supreme Executive power of the State shall be vested in a Chief Magistrate, who shall be styled the Governor of Florida.

SEC. 2. The Governor shall be elected by the qualified electors of the State at the time and places of voting for members of the Legislature, and shall hold his office for four years from the time of his installation, but shall not be eligible for re-election to said office the next succeeding term; *Provided*, That the first election for Governor under this Constitution shall be had at the time and places of voting for members of the Legislature and State officers, A. D. 1888, and the term of office of the Governor then elected shall begin on the first Tuesday after the first Monday in January after his election.

SEC. 3. No person shall be eligible to the office of Governor who is not a qualified elector, and who has not been ten years a citizen of the United States, and five years a citizen and resident of the State of Florida, next preceding the time of his election; *Provided*, That these limitations of time shall not apply to the President of the Senate or Speaker of the House of Representatives when, under this Constitution, the powers and duties of Governor shall devolve upon them.

SEC. 4. The Governor shall be Commander-in-Chief of the military forces of the State, except when they shall be called into the service of the United States.

SEC. 5. The Governor shall transact all Executive business with the officers of the Government, civil and military, and may require information in writing from the administrative officers of the Executive Department upon any subject relating to the duties of their respective offices.

SEC. 6. The Governor shall take care that the laws be faithfully executed.

SEC. 7. When any office, from any cause, shall become vacant, and no mode is provided by this Constitution or by the laws of the State for filling such vacancy, the Governor shall have the power to fill such vacancy by granting a commission for the unexpired term.

SEC. 8. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, and shall in his proclamation state the purpose for which it is to be convened, and the Legislature when organized shall transact no legislative business other than that for which it is especially convened, or such other legislative business as

the Governor may call to its attention while in session, except by a two-thirds vote of each House.

SEC. 9. The Governor shall communicate by message to the Legislature at each regular session information concerning the condition of the State, and recommend such measures as he may deem expedient.

SEC. 10. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper, provided it be not beyond the time fixed for the meeting of the next Legislature.

SEC. 11. The Governor shall have power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, for all offences, except in cases of impeachment. In cases of conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve: and if the Legislature shall fail or refuse to make disposition of such case, the sentence shall be enforced at such time and place as the Governor may direct. He shall communicate to the Legislature, at the beginning of every session, every case of fine or forfeiture remitted, or reprieve, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of its remission, commutation, pardon or reprieve.

SEC. 12. The Governor, Justices of the Supreme Court, and Attorney-General, or a major part of them, of whom the Governor shall be one, may, upon such conditions, and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishment and grant pardons after conviction, in all cases except treason and impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons.*

SEC. 13. The Governor may, at any time, require the opinion of the Justices of the Supreme Court as to the interpretation of any portion of this Constitution upon any question affecting his Executive powers and duties, and the Justices shall render such opinion in writing.

SEC. 14. All grants and commissions shall be in the name and under the authority of the State of Florida, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 15. All officers that shall have been appointed or elected, and that are not liable to impeachment, may be suspended from office by the Governor for malfeasance, or misfeasance, or neglect of duty in office, for the commission of any felony, or for drunkenness or incompetency, and the cause of suspension shall be communicated to the officer suspended and to the Senate at its next session. And the Governor, by and with the consent of the Senate, may remove any officer, not liable to impeachment, for any cause above named. Every suspension shall continue until the adjournment of the next session of the Senate, unless the officer suspended shall, upon the recommendation of the Governor, be removed; but the Governor may reinstate the officer so suspended upon satisfactory evidence that the charge or charges against him are untrue. If the Senate shall refuse to remove, or fail

* See amendment, 1896.

to take action before its adjournment, the officer suspended shall resume the duties of the office. The Governor shall have power to fill by appointment any office, the incumbent of which has been suspended. No officer suspended who shall under this section resume the duties of his office, shall suffer any loss of salary or other compensation in consequence of such suspension. The suspension or removal herein authorized shall not relieve the officer from indictment for any misdemeanor in office.

SEC. 16. The Governor shall appoint all commissioned officers of the State Militia, including an Adjutant-General for the State. The Adjutant-General shall be the chief officer of the Governor's staff, with the rank of Major-General. His duties and compensation shall be prescribed by law; *Provided*, That this Constitution shall work no vacancy in the office of Adjutant-General, as now constituted, until the expiration of the present term.

SEC. 17. The Governor and the administrative officers of the Executive Department shall constitute a Board of Commissioners of State Institutions, which Board shall have supervision of all matters connected with such institutions in such manner as shall be prescribed by law.

SEC. 18. The Governor shall have power to disapprove of any item or items of any bills making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.

SEC. 19. In case of the impeachment of the Governor, his removal from office, death, resignation or inability to discharge his official duties, the powers and duties of Governor shall devolve upon the President of the Senate for the residue of the term, or until the disability shall cease; and in case of the impeachment, removal from office, death, resignation or inability of the President of the Senate, the powers and duties of the office shall devolve upon the Speaker of the House of Representatives. But should there be a general election for members of the Legislature during such vacancy, an election for Governor to fill the same shall be had at the same time.

SEC. 20. The Governor shall be assisted by administrative officers as follows: A Secretary of State, Attorney-General, Comptroller, Treasurer, Superintendent of Public Instruction, and Commissioner of Agriculture, who shall be elected at the same time as the Governor, and shall hold their offices for the same term; *Provided*, That the first election of such officers shall be had at the time of voting for Governor A. D. 1888.

SEC. 21. The Secretary of State shall keep the records of official acts of the Legislature and Executive Departments of the Government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature; and shall be the custodian of the Great Seal of the State. He shall also have charge of the Capitol building and grounds, and perform such other duties as shall be prescribed by law.

SEC. 22. The Attorney-General shall be the legal adviser of the Governor, and of each of the officers of the Executive Department, and shall perform such other legal duties as may be prescribed by law. He shall be Reporter for the Supreme Court.

Sec. 23. The Comptroller shall examine, audit, adjust and settle the accounts of all officers of the State and perform such other duties as may be prescribed by law.

Sec. 24. The Treasurer shall receive and keep all funds, bonds, and other securities, in such manner as may be prescribed by law, and shall disburse no funds, nor issue bonds, or other securities, except upon the order of the Comptroller countersigned by the Governor, in such manner as shall be prescribed by law.

Sec. 25. The Superintendent of Public Instruction shall have supervision of all matters pertaining to public instruction; the supervision of State buildings devoted to educational purposes, and perform such other duties as the Legislature may provide by law.

Sec. 26. The Commissioner of Agriculture shall perform such duties in relation to agriculture as may be prescribed by law; shall have supervision of all matters pertaining to the public lands under regulations prescribed by law, and shall keep the Bureau of Immigration. He shall also have supervision of the State Prison, and shall perform such other duties as may be prescribed by law.

Sec. 27. Each officer of this Department shall make a full report of his official acts, of the receipts and expenditures of his office, and of the requirements of the same, to the Governor at the beginning of each regular session of the Legislature, or whenever the Governor shall require it. Such reports shall be laid before the Legislature by the Governor at the beginning of each regular session thereof. Either House of the Legislature may at any time call upon any officer of this department for information required by it.

Sec. 28. The administrative officers of the Executive Department shall be installed on the same day as the Governor.

Sec. 29. The salary of the Governor of the State shall be thirty-five hundred dollars a year, of the Comptroller two thousand dollars, of the State Treasurer two thousand dollars, of the Secretary of State fifteen hundred dollars, of the Attorney-General fifteen hundred dollars, of the Commissioner of Agriculture fifteen hundred dollars, of the Superintendent of Public Instruction fifteen hundred dollars, a year; *Provided*, That no administrative officer of the Executive Department shall receive any additional compensation beyond his salary for any service or services rendered the State in connection with the Internal Improvement Fund or other interests belonging to the State of Florida; *Provided, further*, That the Legislature may, after eight years from the adoption of this Constitution, increase or decrease any or all of said salaries.

Article V

JUDICIARY DEPARTMENT

Section 1. The judicial power of the State shall be vested in a Supreme Court, Circuit Courts, Criminal Courts, County Courts, County Judges and Justices of the Peace.

Sec. 2. The Supreme Court shall consist of three Justices, who shall be elected by the qualified electors of the State at the time and places of voting for members of the Legislature, and shall hold their office for the term of six years, except those first elected, one of whom, to be designated by lot in such manner as they may determine, shall

hold his office for two years, another to be designated in like manner for four years, and the third for six years, so that one shall be elected every two years after the first election. The Chief Justice shall be designated by lot by said Justices, and shall be such during his term of office. The first election for said Justices shall take place at the first election for members of the Legislature after the ratification of this Constitution, and their term of office shall begin on the first Tuesday after the first Monday in January after their election.

SEC. 3. No person shall ever be appointed or elected as a Justice of the Supreme Court, or Judge of a Circuit Court, or Criminal Court, that is not twenty-five years of age and an attorney at law.

SEC. 4. The majority of the Justices of the Supreme Court shall constitute a quorum for the transaction of all business. The concurrence of two Justices shall be necessary to a decision. The number of terms of the Supreme Court and the times of holding the same shall be regulated by law. All terms shall be held at the Capital of the State.

SEC. 5. The Supreme Court shall have appellate jurisdiction in all cases at law and in equity originating in Circuit Courts, and of appeals from the Circuit Courts in cases arising before Judges of the County Courts in matters pertaining to their probate jurisdiction and in the management of the estates of infants, and in cases of conviction of felony in the criminal courts, and in all criminal cases originating in the Circuit Courts. The Court shall have the power to issue writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, and also all writs necessary or proper to the complete exercise of its jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or any Justice thereof, or before any Circuit Judge.

SEC. 6. The Legislature shall have power to prescribe regulations for calling into the Supreme Court a Judge of the Circuit Court, to hear and determine any matters pending before the Court in the place of any Justice thereof that shall be disqualified or disabled in such case from interest or other cause.

SEC. 7. The Supreme Court shall appoint a Clerk who shall have his office at the Capital and shall be Librarian of the Supreme Court Library.

SEC. 8. There shall be seven Circuit Judges, who shall be appointed by the Governor and confirmed by the Senate, and who shall hold their office for six years. The State shall be divided into seven Judicial Circuits, and one Judge shall be assigned to each Circuit. Such Judge shall hold at least two terms of his court in each county within his Circuit every year, at such times and places as shall be prescribed by law, and may hold special terms. The Governor may, in his discretion, order a temporary exchange of Circuits by the respective Judges, or order any Judge to hold one or more terms or parts of terms in any other Circuit than that to which he is assigned. The Judge shall reside in the Circuit of which he is Judge. Successors to the Judges of the Circuit Courts in office at the ratification of this Constitution shall be appointed and confirmed at the first session of the Legislature after such ratification.

SEC. 9. The salary of the Justices of the Supreme Court shall be three thousand dollars a year. The salary of each Circuit Judge shall be two thousand five hundred dollars a year.

SEC. 10. Until otherwise defined by the Legislature the several Judicial Circuits of the State shall be as follows:

The First Judicial Circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington and Jackson.

The Second Judicial Circuit shall be composed of the counties of Gadsden, Liberty, Calhoun, Franklin, Leon, Wakulla and Jefferson.

The Third Judicial Circuit shall be composed of the counties of Madison, Taylor, Lafayette, Hamilton, Suwannee and Columbia.

The Fourth Judicial Circuit shall be composed of the counties of Nassau, Duval, Baker, Bradford, Clay and St. Johns.

The Fifth Judicial Circuit shall be composed of the counties of Putnam, Alachua, Levy, Marion and Sumter.

The Sixth Judicial Circuit shall be composed of the counties of Hernando, Hillsborough, Manatee, Polk and Monroe.

The Seventh Judicial Circuit shall be composed of the counties of Volusia, Brevard, Orange and Dade.

SEC. 11. The Circuit Courts shall have exclusive original jurisdiction in all cases in equity, also in all cases at law, not cognizable by inferior courts, and in all cases involving the legality of any tax, assessment, or toll; of the action of ejectment and of all actions involving the titles or boundaries of real estate, and of all criminal cases not cognizable by inferior courts; and original jurisdiction of actions of forcible entry and unlawful detainer, and of such other matters as the Legislature may provide. They shall have final appellate jurisdiction in all civil and criminal cases arising in the County Court, or before the County Judge, of all misdemeanors tried in Criminal Courts, of judgments or sentences of any Mayor's Court, and of all cases arising before Justices of the Peace in counties in which there is no County Court; and supervision and appelate jurisdiction of matters arising before County Judges pertaining to their probate jurisdiction, or to the estates and interests of minors, and of such other matters as the Legislature may provide. The Circuit Courts and Judges shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, prohibition, habeas corpus and all writs proper and necessary to the complete exercise of their juridiction.

SEC. 12. The Circuit Courts and Circuit Judges may have such extra territorial jurisdiction in chancery cases as may be prescribed by law.

SEC. 13. It shall be the duty of the Judges of the Circuit Courts to report to the Attorney-General at least thirty days before each session of the Legislature such defects in the laws as may have been brought to their attention, and to suggest such amendments or additional Legislation as may be deemed necessary. The Attorney-General shall report to the Legislature at each session such legislation as he may deem advisable.

SEC. 14. A Circuit Judge may appoint in each county in his Circuit one or more attorneys at law, to be Court Commissioners, who shall have power in the absence from the county of the Circuit Judge, to allow writs of injunction and to issue writs of habeas corpus, returnable before himself or the Circuit Judge. Their orders in such

matters may be reviewed by the Circuit Judge, and confirmed, qualified or vacated. They may be removed by the Circuit Judge. The Legislature may confer upon them further powers, not judicial, and shall fix their compensation.

SEC. 15. The Governor, by and with the consent of the Senate, shall appoint a State Attorney in each Judicial Circuit, whose duties shall be prescribed by law, and who shall hold office for four years. There shall be elected in each county a Sheriff, and a Clerk of the Circuit Court, who shall also be Clerk of the County Court, except in counties where there are Criminal Courts, and of the Board of County Commissioners, and Recorder and *ex-officio* Auditor of the County, each of whom shall hold office for four years. Their duties shall be prescribed by law.

SEC. 16. There shall be in each county a County Judge who shall be elected by the qualified electors of said county at the time and places of voting for other county officers and shall hold his office for four years. His compensation shall be provided for by law.

SEC. 17. The County Judge shall have original jurisdiction in all cases at law in which the demand or value of property involved shall not exceed one hundred dollars; of proceedings relating to the forcible entry or unlawful detention of lands and tenements; and of such criminal cases as the Legislature may prescribe. The County Judge shall have jurisdiction of the settlement of the estates of decedents and minors, to order the sale of real estate of decedents and minors, to take probate of wills, to grant letters testamentary and of administration and guardianship, and to discharge the duties usually pertaining to courts of probate. He shall have the power of a committing magistrate and shall issue all licenses required by law to be issued in the county.

SEC. 18. The Legislature may organize in such counties, as it may think proper, County Courts which shall have jurisdiction of all cases at law in which the demand or value of the property involved shall not exceed five hundred dollars; of proceedings relating to the forcible entry or unlawful detention of lands and tenements, and of misdemeanors, and final appellate jurisdiction in civil cases arising in the Courts of Justices of the Peace. The trial of such appeals may be *de novo* at the option of the appellant. The County Judge shall be the Judge of said Court. There shall be elected by the qualified electors of said county at the time when the said Judge is elected a Prosecuting Attorney for said county, who shall hold office for four years. His duties and compensation shall be prescribed by law. Such Courts may be abolished at the pleasure of the Legislature.

SEC. 19. When any civil case at law in which the Judge is disqualified shall be called for trial in a Circuit or County Court, the parties may agree upon an attorney at law, who shall be Judge *ad litem*, and shall preside over the trial of and make orders in said cause as if he were Judge of the Court. The parties may, however, transfer the cause to another Circuit Court or County Court, as the case may be, or may have the case submitted to a referee.

SEC. 20. Any civil cause may be tried before a practicing attorney as referee upon the application of the parties and an order from the court in whose jurisdiction the case may be, authorizing such trial and appointing such referee. The referee shall keep a complete

record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the Clerk; and the cause shall be subject to an appeal in the manner prescribed by law.

SEC. 21. The County Commissioners of each county shall divide it into as many Justice Districts, not less than two, as they may deem necessary. There shall be elected one Justice of the Peace for each of the said districts. He shall hold his office for four years.

SEC. 22. In each county where there is no County Court, as provided for in section eighteen of this Article, the Justices of the Peace shall have jurisdiction in cases at law in which the demand or value of the property involved does not exceed one hundred dollars, and in which the cause of action accrued, or the defendant resides, in his district; and in such criminal cases, except felonies, as may be prescribed by law; and in counties where County Courts are established, as provided for in section eighteen of this Article, every Justice of the Peace shall have jurisdiction in cases at law in which the demand or value of the property does not exceed fifty dollars, and in which the cause of action accrued, or the defendant resides, in his district; and he shall have power to issue process for the arrest of persons charged with crime, and to make the same returnable before himself or the County Judge, for examination, discharge, commitment or bail of the accused. Justices of the Peace shall have power to hold inquests of the dead. Appeals from Justices of the Peace Courts to Circuit Courts in criminal cases shall be tried *de novo* under such regulations as the Legislature may prescribe.*

SEC. 23. A Constable shall be elected by the registered voters in each Justice's district, who shall perform such duties, and under such regulations as may be prescribed by law.

SEC. 24. There shall be established in the county of Escambia, and upon application of a majority of the registered voters in such other counties as the Legislature may deem expedient, a Criminal Court of Record, and there shall be one Judge for each of the said courts, who shall be appointed by the Governor and confirmed by the Senate, who shall hold his office for four years, and whose salary shall be one thousand dollars a year, the counties paying the salaries.

SEC. 25. The said courts shall have jurisdiction of all criminal cases not capital which shall arise in said counties respectively.

SEC. 26. There shall be six terms of said courts in each year.

SEC. 27. There shall be for each of said courts a Prosecuting Attorney, who shall be appointed by the Governor and confirmed by the Senate, and who shall hold his office for four years. His compensation shall be fixed by law.

SEC. 28. All offences triable in said Court shall be prosecuted upon information under oath, to be filed by the prosecuting attorney, but the grand jury of the Circuit Court for the county in which said Criminal Court is held may indict for offences triable in the Criminal Court. Upon the finding of such indictment the Circuit Judge shall commit or bail the accused for trial in the Criminal Court, which trial shall be upon information.

SEC. 29. The County Courts in counties where such Criminal Courts are established shall have no criminal jurisdiction and no prosecuting Attorney.

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* See amendment, 1896.

SEC. 30. The Clerk of said Court shall be elected by the electors of the county in which the Court is held and shall hold office for four years, and his compensation shall be fixed by law. He shall also be Clerk of the County Court. The Sheriff of the County shall be the executive officer of said Court, and his duties and fees shall be fixed by law.

SEC. 31. The State Attorney residing in the county where such Court is held shall be eligible for appointment as County Solicitor for said county.

SEC. 32. Such courts may be abolished by the Legislature.

SEC. 33. When the office of any Judge shall become vacant from any cause, the successor to fill such vacancy shall be appointed or elected only for the unexpired term of the Judge whose death, resignation, retirement, or other cause created such vacancy.

SEC. 34. The Legislature may establish in incorporated towns and cities, courts for the punishment of offences against municipal ordinances.

SEC. 35. No courts other than those herein specified shall be established in this State.

SEC. 36. All judicial officers in this State shall be conservators of the peace.

SEC. 37. The style of all process shall be "The State of Florida," and all prosecutions shall be conducted in the name and by the authority of the State.

SEC. 38. The number of jurors for the trial of causes in any court may be fixed by law but shall not be less than six in any case.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY

SECTION 1. Every male person of the age of twenty-one years and upwards, that shall, at the time of registration, be a citizen of the United States, or that shall have declared his intention to become such in conformity to the laws of the United States, and that shall have resided and had his habitation, domicile, home and place of permanent abode in Florida for one year, and in the county for six months, shall in such county be deemed a qualified elector at all elections under this Constitution.[a]

SEC. 2. The Legislature, at its first session after the ratification of this Constitution, shall provide by law for the registration of all the legally qualified voters in each county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote.

SEC. 3. Every elector shall at the time of his registration take and subscribe to the following oath: "I do solemnly swear or affirm that I will protect and defend the Constitution of the United States and of the State of Florida, that I am twenty-one years of age, and have been a resident of the State of Florida for twelve months and of this county for six months, and I am qualified to vote under the Constitution and laws of the State of Florida."

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[a] This section (Art. VI, sec. 7) repealed, in 1894. See amendment, 1894.

SEC. 4. No person under guardianship, *non compos mentis* or insane shall be qualified to vote at any election, nor shall any person convicted of felony by a court of record be qualified to vote at any election unless restored to civil rights.

SEC. 5. The Legislature shall have power to, and shall, enact the necessary laws to exclude from every office of honor, power, trust or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election; or that shall hereafter fight a duel or send or accept a challenge to fight, or that shall be a second to either party, or that shall be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law.

SEC. 6. In all elections by the Legislature the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

SEC. 7. At any election at which a citizen or subject of any foreign country shall offer to vote under the provisions of this Constitution, if required by any elector, he shall produce to the persons lawfully authorized to conduct and supervise such election a duly sealed and certified copy of his declaration of intention, and if unable to do so by reason that such copy cannot be obtained at the time of said election, he shall be allowed to make affidavit before a proper officer, setting forth the reason why he is unable to furnish such certificate, and if said affidavit prove satisfactory to the inspectors they shall allow said elector to cast his vote; and any naturalized citizen offering to vote shall, if so required by any elector, produce his certificate of naturalization or a duly certified copy thereof, and in the event that said elector cannot produce the same, he shall be allowed to make affidavit before a proper officer stating in full the reason why it cannot be furnished, and if satisfactory to the inspectors of said election such elector shall be allowed to vote.[a]

SEC. 8. The Legislature shall have power to make the payment of the capitation tax a prerequisite for voting, and all such taxes received shall go into the school fund.

SEC. 9. The Legislature shall enact such laws as will preserve the purity of the ballot given under this Constitution.

ARTICLE VII

CENSUS AND APPORTIONMENT

SECTION 1. The Senators representing the odd numbered districts, as said districts are now designated, whose terms have not expired, and those Senators representing even numbered districts, to be elected A. D. 1886, under the Constitution of 1868, shall be the first Senate under this Constitution; and the members of the Assembly to be elected A. D. 1886 shall be the first House of Representatives under this Constitution, and the Senate and House of Representatives thus constituted shall be the first Legislature under this Constitution, and the terms of office of each of the said Senators and members of the House of Representatives shall expire at the election for Senators

[a] This section (Art. VI, sec. 7) repealed in 1894.

and members of the House of Representatives A. D. 1888, and in that year a new Senate and House of Representatives shall be elected.

SEC. 2. The Legislatures that convene in the year 1889 and thereafter, shall consist of not more than thirty-two members of the Senate, and of not more than sixty-eight members of the House of Representatives. The members of the House of Representatives shall be elected for terms of two years, and the members of the Senate shall be elected for terms of four years, except as hereafter provided, the elections for members of the Senate and House of Representatives to be held at the same time and places. The terms of Senators elected in 1888 from districts designated by even numbers, shall expire at the end of two years from that date, and thereafter all Senators shall be elected for four years, so that one-half of the whole number shall be elected biennially.[a]

SEC. 3. The Legislature that shall meet A. D. 1887, and those that shall meet every ten years thereafter, shall apportion the representation in the Senate, the whole number of Senators not to exceed thirty-two members; and at the same time shall also apportion the representation in the House of Representatives, the whole number of Representatives not to exceed sixty-eight members. The representation in the House of Representatives shall be apportioned among the several counties as nearly as possible according to population; *Provided*, Each county shall have one representative at large in the House of Representatives, and no county shall have more than three Representatives.

SEC. 4. When any Senatorial District is composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district. Any new county that may be created shall be entitled to one member in the House of Representatives until the next apportionment thereafter; and shall be assigned when created to one of the adjoining Senatorial Districts as shall be determined by the Legislature.

SEC. 5. The Legislature shall provide for an enumeration of all the inhabitants of the State by counties for the year 1895, and every ten years thereafter.

ARTICLE VIII

COUNTIES AND CITIES

SECTION 1. The State shall be divided into political divisions to be called counties.

SEC. 2. The several counties as they now exist are hereby recognized as the legal political divisions of the State.

SEC. 3. The Legislature shall have power to establish new counties, and to change county lines. Every newly established county shall be held liable for its proportion of the then existing liabilities of the county or counties from which it shall be formed, rated upon the basis of the assessed value of the property, both real and personal, subject to taxation within the territory taken from any county or counties; and every county acquiring additional territory from another county shall be held liable for its proportion of the liabilities of

[a] Amended, 1896.

such other county existing at the time of such acquisition, to be rated upon the basis of the assessed value of all property subject to taxation within such acquired territory.

SEC. 4. The Legislature shall have no power to remove the County Seat of any county, but shall provide by general law for such removal; *Provided*, That in the formation of new counties the County Seat may be temporarily established by law.

SEC. 5. There shall be appointed by the Governor, by and with the consent of the Senate, in and for each county, five County Commissioners. Their terms of office shall be two years, and their powers, duties and compensation shall be prescribed by law. The Legislature shall provide for the division of each county into five districts, and one County Commissioner shall be selected from each of such districts.

SEC. 6. The Legislature shall provide for the election by the qualified electors in each county of the following county officers: A Clerk of the Circuit Court, a Sheriff, Constables, a County Assessor of Taxes, a Tax Collector, a County Treasurer, a Superintendent of Public Instruction, and a County Surveyor. The term of office of all county officers mentioned in this section shall be four years, except that of County Assessor of Taxes, County Tax Collector and County Treasurer, who shall be elected for two years. Their powers, duties and compensation shall be prescribed by law.

SEC. 7. The Legislature shall by law authorize the County Commissioners of the several counties, where it is deemed necessary for assessment purposes, to divide their respective counties into taxation districts, and to appoint in and for each district an Assistant Assessor of Taxes, whose powers, duties and compensation shall be prescribed by law. All county officers, except Assistant Assessors of Taxes, shall, before entering upon the duties of their respective offices, be commissioned by the Governor; but no such commission shall issue to any such officer until he shall have filed with the Secretary of State a good and sufficient bond in such sum and upon such conditions as the Legislature shall by law prescribe, approved by the County Commissioners of the county in which such officer resides, and by the Comptroller. No county officer shall become security upon the official bond of any other county officer. If any person elected or appointed to any county office shall fail to give bond and qualify within sixty days after his election, the said office shall become vacant.

SEC. 8. The Legislature shall have power to establish and to abolish municipalities, to provide for their government, to prescribe their jurisdiction and powers, and to alter or amend the same at any time. When any municipality shall be abolished, provision shall be made for the protection of its creditors.

ARTICLE IX

TAXATION AND FINANCE

SECTION 1. The Legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting

such property as may be exempted by law for municipal, educational, literary, scientific, religious or charitable purposes.

SEC. 2. The Legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.

SEC. 3. No tax shall be levied except in pursuance of law.

SEC. 4. No money shall be drawn from the Treasury except in pursuance of appropriations made by law.

SEC. 5. The Legislature shall authorize the several counties and incorporated cities or towns in the State to assess and impose taxes for county and municipal purposes, and for no other purposes, and all property shall be taxed upon the principles established for State taxation. But the cities and incorporated towns shall make their own assessments for municipal purposes upon the property within their limits. The Legislature may also provide for levying a special capitation tax, and a tax on licenses. But the capitation tax shall not exceed one dollar a year and shall be applied exclusively to common school purposes.

SEC. 6. The Legislature shall have power to provide for issuing State bonds only for the purpose of repelling invasion or suppressing insurrection, or for the purpose of redeeming or refunding bonds already issued, at a lower rate of interest

SEC. 7. No tax shall be levied for the benefit of any chartered company of the State, nor for paying interest on any bonds issued by such chartered companies, or by counties, or by corporations, for the above-mentioned purpose.

SEC. 8. No person or corporation shall be relieved by any court from the payment of any tax that may be illegal, or illegally or irregularly assessed, until he or it shall have paid such portion of his or its taxes as may be legal, and legally and regularly assessed.

SEC. 9. There shall be exempt from taxation property to the value of two hundred dollars to every widow that has a family dependent on her for support, and to every person that has lost a limb or been disabled in war or by misfortune.

SEC. 10. The credit of the State shall not be pledged or loaned to any individual, company, corporation or association; nor shall the State become a joint owner or stockholder in any company, association or corporation. The Legislature shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.

ARTICLE X

HOMESTEAD AND EXEMPTIONS

SECTION 1. A homestead to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family residing in this State, together with one thousand dollars worth of personal property, and the improvements on the real estate, shall be exempt from forced

sale under process of any court, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes or assessments, or for the payment of obligations contracted for the purchase of said property, or for the erection or repair of improvements on the real estate exempted, or for house, field or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business house of the owner; and no judgment or decree or execution shall be a lien upon exempted property except as provided in this Article.

Sec. 2. The exemptions provided for in section one shall inure to the widow and heirs of the party entitled to such exemption, and shall apply to all debts, except as specified in said section.

Sec. 3. The exemption provided for in the Constitution of this State adopted in 1868 shall apply as to all debts contracted and judgments rendered since the adoption thereof and prior to the adoption of this Constitution.

Sec. 4. Nothing in this Article shall be construed to prevent the holder of a homestead from alienating his or her homestead so exempted by deed or mortgage duly executed by himself or herself, and by husband and wife, if such relation exists; nor if the holder be without children to prevent him or her from disposing of his or her homestead by will in a manner prescribed by law.

Sec. 5. No homestead provided for in section one shall be reduced in area on account of its being subsequently included within the limits of an incorporated city or town, without the consent of the owner.

Sec. 6. The Legislature shall enact such laws as may be necessary to enforce the provisions of this Article.

Article XI

married women's property

Section 1. All property, real and personal, of a wife owned by her before marriage, or lawfully acquired afterward by gift, devise, bequest, descent, or purchase, shall be her separate property, and the same shall not be liable for the debts of her husband without her consent given by some instrument in writing executed according to the law respecting conveyances by married women.

Sec. 2. A married woman's separate real or personal property may be charged in equity and sold, or the uses, rents and profits thereof sequested for the purchase money thereof; or for money or thing due upon any agreement made by her in writing for the benefit of her separate property; or for the price of any property purchased by her, or for labor and material used with her knowledge or assent in the construction of buildings, or repairs, or improvements upon her property, or for agricultural or other labor bestowed thereon, with her knowledge and consent.

Sec. 3. The Legislature shall enact such laws as shall be necessary to carry into effect this Article.

Article XII

EDUCATION

Section 1. The Legislature shall provide for a uniform system of public free schools, and shall provide for the liberal maintenance of the same.

Sec. 2. There shall be a Superintendent of Public Instruction, whose duties shall be prescribed by law, and whose term of office shall be four years and until the election and qualification of his successor.

Sec. 3. The Governor, Secretary of State, Attorney-General, State Treasurer and State Superintendent of Public Instruction shall constitute a body corporate, to be known as the State Board of Education of Florida, of which the Governor shall be President, and the Superintendent of Public Instruction Secretary. This Board shall have power to remove any subordinate school officer for cause, upon notice to the incumbent; and shall have the management and investment of all State School Funds under such regulations as may be prescribed by law, and such supervision of schools of higher grades as the law shall provide.

Sec. 4. The State School Fund, the interest of which shall be exclusively applied to the support and maintenance of public free schools, shall be derived from the following sources:

The proceeds of all lands that have been or may hereafter be granted to the State by the United States for public school purposes.

Donations to the State when the purpose is not specified.

Appropriations by the State.

The proceeds of escheated property or forfeitures.

Twenty-five per cent. of the sales of public lands which are now or may hereafter be owned by the State.

Sec. 5. The principal of the State School Fund shall remain sacred and inviolate.

Sec. 6. A special tax of one mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of public free schools.

Sec. 7. Provision shall be made by law for the distribution of the interest on the State School Fund and the special tax among the several counties of the State in proportion to the number of children residing therein between the ages of six and twenty-one years.[a]

Sec. 8. Each county shall be required to assess and collect annually for the support of public free schools therein, a tax of not less than three mills nor more than five mills on the dollar of all taxable property in the same.

Sec. 9. The County School Fund shall consist, in addition to the tax provided for in section eight of this Article, of the proportion of the interest of the State School Fund and of the one mill State tax apportioned to the county; the net proceeds of all fines collected under the penal laws of the State within the county; all capitation

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[a]Amended, 1894.

taxes collected within the county; and shall be disbursed by the County Board of Public Instruction solely for the maintenance and support of public free schools.

Sec. 10. The Legislature may provide for the division of any county or counties into convenient school districts; and for the election biennially of three school trustees, who shall hold their office for two years, and who shall have the supervision of all the schools within the district; and for the levying and collection of a district school tax, for the exclusive use of public free schools within the district, whenever a majority of the qualified electors thereof that pay a tax on real, or personal property shall vote in favor of such levy: *Provided*, That any tax authorized by this section shall not exceed three mills on the dollar in any one year on the taxable property of the district.

Sec. 11. Any incorporated town or city may constitute a School District. The fund raised by section 10 may be expended in the district where levied for building or repairing school houses, for the purchase of school libraries and text-books, for salaries of teachers, or for other educational purposes, so that the distribution among all the schools of the district be equitable.

Sec. 12. White and colored children shall not be taught in the same school, but impartial provision shall be made for both.

Sec. 13. No law shall be enacted authorizing the diversion or the lending of any County or District School Funds, or the appropriation of any part of the permanent or available school fund to any other than school purposes; nor shall the same, or any part thereof, be appropriated to or used for the support of any sectarian school.

Sec. 14. The Legislature at its first session shall provide for the establishment, maintenance and management of such Normal Schools, not to exceed two, as the interests of public education may demand.

Sec. 15. The compensation of all county school officers shall be paid from the school fund of their respective counties, and all other county officers receiving stated salaries shall be paid from the general funds of their respective counties.

Article XIII

PUBLIC INSTITUTIONS

Section 1. Institutions for the benefit of the insane, blind and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

Sec. 2. A State Prison shall be established and maintained in such manner as may be prescribed by law. Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders; and the Legislature shall have power to establish a home and work-house for common vagrants.

Sec. 3. The respective counties of the State shall provide in the manner prescribed by law for those of the inhabitants that, by reason of age, infirmity or misfortune, may have claims upon the aid and sympathy of society.

Sec. 4. The first Legislature that convenes after the adoption of this Constitution shall enact the necessary laws to carry into effect the provisions of this Article.

Article XIV

MILITIA

Section 1. All able-bodied male inhabitants of the State, between the ages of eighteen and forty-five years, that are citizens of the United States, or have declared their intention to become citizens thereof, shall constitute the militia of the State; but no male citizen of whatever religious creed or opinion shall be exempt from military duty except upon such conditions as may be prescribed by law.

Sec. 2. The Legislature may provide by law for organizing and disciplining the militia of the State, for the encouragement of volunteer corps, the safe keeping of the public arms, and for a guard for the State Prison.

Sec. 3. The Governor, by and with the consent of the Senate, shall appoint two Major-Generals and four Brigadier-Generals of Militia. They shall take rank according to the dates of their commissions. The officers and soldiers of the State Militia, when uniformed, shall wear the uniform prescribed for the United States Army; *Provided*, That volunteer companies may select their own uniforms.

Sec. 4. The Governor shall have power to call out the Militia to preserve the public peace, to execute the laws of the State, to suppress insurrection, or to repel invasion.

Article XV

PUBLIC HEALTH

Section 1. The Legislature shall establish a State Board of Health and also County Boards of Health in all counties where it may be necessary.

Sec. 2. The State Board of Health shall have supervision of all matters relating to public health, with such duties, powers and responsibilities as may be prescribed by law.

Sec. 3. The County Boards of Health shall have such powers and be under the supervision of the State Board to such extent as the Legislature may prescribe.

Article XVI

MISCELLANEOUS PROVISIONS

Section 1. The Seat of Government shall be at the City of Tallahassee, in the county of Leon.

Sec. 2. Each and every officer of this State, including the members of the Legislature, shall before entering upon the discharge of his official duties take the following oath of office: I do solemnly swear [or affirm] that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of ——— on which I am now about to enter. So help me God.

SEC. 3. The salary of each officer shall be payable quarterly upon his own requisition.

SEC. 4. All county officers shall hold their respective offices, and keep their official books and records, at the county seats of their counties; and the Clerk and Sheriff shall either reside or have a sworn deputy within two miles of the county seat.

SEC. 5. The Legislature may provide for the donation of the public lands to actual settlers, but such donation shall not exceed eighty acres to any one person.

SEC. 6. The Legislature shall provide for the speedy publication and distribution of all laws it may enact. All decisions of the Supreme Court and all laws and judicial decisions shall be free for publication by any person. But no judgment of the Supreme Court shall take effect until the opinion of the Court in such case shall be filed with the Clerk of said Court.[a]

SEC. 7. The Legislature shall not create any office, the term of which shall be longer than four years.

SEC. 8. A plurality of votes given at an election of officers shall constitute a choice when not otherwise provided by this Constitution.

SEC. 9. In all criminal cases prosecuted in the name of the State, where the defendant is insolvent or discharged, the State shall pay the legal costs and expenses, including the fees of officers, under such regulations as shall be prescribed by law.[b]

SEC. 10. The Governor, Supreme Court and all the administrative officers of the Executive Department shall keep their offices at the Seat of Government. But in case of invasion or violent epidemics the Governor may direct that the offices of the Government be removed temporarily to some other place. The sessions of the Legislature may be adjourned for the same cause to some other place, but in case of such removal all the Departments of the Government shall be removed to one place. But such removal shall not continue longer than the necessity for the same shall continue.

SEC. 11. No extra compensation shall be made to any officer, agent, employe, or contractor after the service shall have been rendered, or the contract made; nor shall any money be appropriated or paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, unless such compensation or claim be allowed by bill passed by two-thirds of the members elected to each house of the Legislature.

SEC. 12. The present Seal of the State shall be and remain the Seal of the State of Florida; and the present State Emblem shall be and remain the Emblem of the State of Florida.

SEC. 13. The sureties upon the official bonds of all the State officers shall be residents of, and have sufficient visible property unencumbered within the State, not exempt from sale under legal process, to make good their bonds; and the sureties upon the official bonds of all county officers shall reside within the counties where such county officers reside, and have sufficient visible property therein unencum-

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[a]Amended, 1896. [b]Amended, 1894.

bered and not exempt from sale under legal process to make good their bonds.[a]

SEC. 14. All State, County, and Municipal officers shall continue in office after the expiration of their official terms until their successors are duly qualified.

SEC. 15. No person holding or exercising the functions of any office under any foreign Government, under the Government of the United States, or under any other State, shall hold any office of honor or profit under the government of this State; and no person shall hold, or perform the functions of, more than one office under the government of this State at the same time; *Provided*, Notaries Public, militia officers, county school officers and Commissioners of Deeds may be elected or appointed to fill any legislative, executive or judicial office.

SEC. 16. The property of all corporations, except the property of a corporation which shall construct a ship or barge canal across the peninsula of Florida, if the Legislature should so enact, whether heretofore or hereafter incorporated, shall be subject to taxation unless such property be held and used exclusively for religious, scientific, municipal, educational, literary or charitable purposes.

SEC. 17. No person shall hold any office of trust or profit under the laws of this State without devoting his personal attention to the duties of the same.

SEC. 18. The Legislature shall provide for deductions from the salaries of public officers who neglect the performance of any duty assigned them by law.

SEC. 19. No Convention nor Legislature of this State shall act upon any amendment of the Constitution of the United States proposed by Congress to the several States, unless such Convention or Legislature shall have been elected after such amendment is submitted.

SEC. 20. The Governor and every State officer are hereby prohibited from giving certificates of election or other credentials to any person as having been elected to the House of Representatives of the United States Congress, or the United States Senate, who has not been five years a citizen of the State and ten years a citizen of the United States, and a qualified voter.

SEC. 21. Deeds and mortgages which have been proved for record and recorded according to law, shall be taken as *prima facie* evidence in the courts of this State without requiring proof of the execution. A certified copy of the record of any deed or mortgage that has been

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[a] The joint resolution approved August 6, 1868 (Laws, p. 183), resolved: "That a seal of the size of the American silver dollar, having in the centre thereof a view of the sun's rays over a highland in the distance, a cocoa tree, a steamboat on water, and an Indian female scattering flowers in the foreground, encircled by the words 'Great Seal of the State of Florida; in God We Trust,' be and the same is hereby adopted as the great seal of the State of Florida, and immediately after such seal shall be prepared for use, the Governor shall issue his proclamation announcing that the same has become the great seal of the State."

The constitution of 1868, Article XVI, section 31, directed as follows: "The Legislature shall, as soon as convenient, adopt a State emblem having the design of the great seal of the State impressed upon a white ground of six feet six inches fly and six feet deep."

or shall be duly recorded according to law shall be admitted as *prima facie* evidence thereof, and of its due execution with like effect as the original duly proved; *Provided*, It be made to appear that the original is not within the custody or control of the party offering such copy.

SEC. 22. The Legislature shall provide for giving to mechanics and laborers an adequate lien on the subject matter of their labor.

SEC. 23. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 24. All marriages between a white person and a negro, or between a white person and a person of negro descent to the fourth generation, inclusive, are hereby forever prohibited.

SEC. 25. The term felony, whenever it may occur in this Constitution or in the laws of the State, shall be construed to mean any criminal offence punishable with death or imprisonment in the State Penitentiary.

SEC. 26. The Legislature may make provision for the proper adjustment and settlement of the claim of the citizens of Ocala against the State for certain aid given by the town of Ocala for the establishment of the East Florida Seminary in 1852, and conditional upon its location at the said town.

SEC. 27. The Legislature shall appropriate at least five hundred dollars each year for the purchase of such books for the Supreme Court Library as the Court may direct.

SEC. 28. The Legislature may provide for the drainage of the land of one person over or through that of another, upon just compensation therefor to the owner of the land over which such drainage is had.

SEC. 29. No private property nor right of way shall be appropriated to the use of any corporation or individual until full compensation therefor shall be first made to the owner, or first secured to him by deposit of money; which compensation, irrespective of any benefit from any improvement proposed by such corporation or individual, shall be ascertained by a jury of twelve men in a court of competent jurisdiction, as shall be prescribed by law.

SEC. 30. The Legislature is invested with full power to pass laws for the correction of abuses and to prevent unjust discrimination and excessive charges by persons and corporations engaged as common carriers in transporting persons and property, or performing other services of a public nature; and shall provide for enforcing such laws by adequate penalties or forfeitures.

SEC. 31. No railroad or other transportation company or common carrier in this State shall grant a free pass, or discount the fare paid by the public generally, to any member of the Legislature, or to any salaried officer of this State, and the Legislature shall prohibit the granting or receiving such free pass, or fare at a discount, by suitable penalties.

ARTICLE XVII

AMENDMENTS

SECTION 1. Either branch of the Legislature, at a regular session thereof, may propose amendments to this Constitution; and if the

same be agreed to by three-fifths of all the members elected to each House, such proposed amendments shall be entered upon their respective Journals with the yeas and nays, and published in one newspaper in each county where a newspaper is published, for three months immediately preceding the next general election of Representatives, at which election the same shall be submitted to the electors of the State, for approval or rejection. If a majority of the electors voting upon the amendments at such election shall adopt the amendments, the same shall become a part of the Constitution. The proposed amendments shall be so submitted as to enable the electors to vote on each amendment separately.

Sec. 2. If at any time the Legislature, by a vote of two-thirds of all the members of both Houses, shall determine that a revision of this Constitution is necessary, such determination shall be entered upon their respective Journals, with the yeas and nays thereon. Notice of said action shall be published weekly in one newspaper in every county in which a newspaper is published, for three months preceding the next general election of Representatives, and in those counties where no newspaper is published, notice shall be given by posting at the several polling precincts in such counties for six weeks next preceding said election. The electors at said election may vote for or against the revision in question. If a majority of the electors so voting be in favor of revision, the Legislature chosen at such election shall provide by law for a Convention to revise the Constitution, said Convention to be held within six months after the passage of such law. The convention shall consist of a number equal to the membership of the House of Representatives, and shall be apportioned among the several counties in the same manner as members of said House.

Article XVIII

SCHEDULE

Section 1. The Constitution adopted A. D. 1868, with amendments thereto, is declared to be superceded by this Constitution: But all rights, actions, claims and contracts, both as respects individuals and bodies corporate, shall continue to be as valid as if this constitution had not been adopted. And all fines, taxes, penalties and forfeitures due and owing to the State of Florida under the Constitution of 1868, shall inure to the use of the State under this Constitution.

Sec. 2. All laws now in force not inconsistent with this Constitution shall continue in force until they shall expire by their own limitation, or be repealed by the Legislature.

Sec. 3. All persons holding any office or appointment at the ratification of this Constitution shall continue in the exercise of the duties thereof, according to their respective commissions or appointemnts, and until their successors are duly qualified, unless by this Constitution otherwise provided.

Sec. 4. Nothing contained in this Constitution shall operate to vacate the office of Lieutenant-Governor until the expiration of his present term.

Sec. 5. All vacancies occurring by limitation of terms before the general election in 1888 shall be filled as provided for by law under the Constitution of 1868.

Sec. 6. The term of office for all appointees to fill vacancies in any of the elective offices under this Constitution, shall extend only to the election and qualification of a successor at the ensuing general election.

Sec. 7. In all cases of elections to fill vacancies in office such election shall be for the unexpired term.

Sec. 8. Upon the ratification of this Constitution the Commissioner of Lands and Immigration shall assume the office of Commissioner of Agriculture, and his duties as such shall be prescribed by the first Legislature assembled under this Constitution.

Sec. 9. A general election shall be held in each county in this State on the first Tuesday after the first Monday in November, A. D. 1888, and every two years thereafter, for all elective State and county officers whose terms of office are about to expire, or for any office that shall have become vacant.*

Sec. 10. The first election for County Judge, Clerk of the Circuit Court, Sheriff, Tax Assessor, Tax Collector, County Treasurer, County Superintendent of Public Instruction, County Surveyor, Justices of the Peace, Constables and all other elective County Officers shall be at the general election in 1888.

Sec. 11. It shall be the duty of the President of this Convention immediately on its adjournment to certify to the Governor a copy of this Constitution.

Sec. 12. Upon receipt of such certified copy the Governor shall forthwith announce the fact by proclamation, to be published in such newspapers in this State as may be deemed requisite for general information, and five printed copies of such Constitution shall be transmitted by the Secretary of State to the Clerk of the Circuit Court, and five to the County Judge of each county, which shall be kept on file in their respective offices for examination by any person desiring the same.

Sec. 13. All Courts as now organized and constituted shall continue with their jurisdiction until the Legislature shall conform to the requirements of this Constitution the jurisdiction of such Courts as, under this Constitution, are to exercise in whole or in part the jurisdiction of Courts now organized.

Sec. 14. The terms of office of all County Officers, unless otherwise provided, shall commence on the first Tuesday after the first Monday in January next after their election.

Article XIX

LOCAL OPTION

Section 1. The Board of County Commissioners of each county in the State, not oftener than once in every two years, upon the application of one-fourth of the registered voters of any county, shall call and provide for an election in the county in which application is made, to decide whether the sale of intoxicating liquors, wines or beer shall be prohibited therein, the question to be determined by a majority vote of those voting at the election called under

* Amended, 1896.

this section, which election shall be conducted in the manner prescribed by law for holding general elections; *Provided*, That intoxicating liquors, either spiritous, vinous, or malt, shall not be sold in any election district in which a majority vote was cast against the same at the said election. Elections under this section shall be held within sixty days from the time of presenting said application, but if any such election should thereby take place within sixty days of any State or National election, it shall be held within sixty days after any such State or National election.

SEC. 2. The Legislature shall provide necessary laws to carry out and enforce the provisions of Section 1 of this Article.

ORDINANCES

ORDINANCE NO. 1

SECTION 1. This Constitution shall be submitted to the people of the State of Florida for ratification on the first Tuesday after the first Monday in November, A. D. 1886, and it shall require a majority of the votes cast upon the question to determine its ratification or rejection.

SEC. 2. At such election each qualified elector shall express his assent or dissent, by having written or printed upon the ticket which he shall vote the words, " For the Constitution," or "Against the Constitution;" such election being subject to the same regulations and restrictions as are now prescribed by law. And in case of its ratification by the people, the Governor shall forthwith cause proclamation to be made of the fact, and it shall go into effect on the first day of January, A. D. 1887.

ORDINANCE NO. 2

SECTION 1. Article XIX shall be submitted to the people, when the Constitution is submitted for ratification, to become a part of the Constitution, if adopted by a majority of the votes cast upon the question, and the ballots of those voting on this Article shall have written or printed on them the words, " For Article XIX," or "Against Article XIX."

ORDINANCE NO. 3

Be it ordained by the People of Florida, Represented in Constitutional Convention:

SECTION 1. The pay of the members of this Constitutional Convention shall be a per diem for attendance of six ($6.00) dollars a day in addition to mileage of ten cents a mile, each way, from their places of residence to the Capital and return, estimated by the shortest thoroughfare.

SEC. 2. The pay of the Secretary and Assistant Secretary of the Convention and all the Clerks elected by the Convention shall be six ($6.00) dollars per diem each, allowing the Secretary and Assistant Secretary one day after adjournment to complete unfinished business; all Committee Clerks shall receive five ($5.00) dollars per diem for the number of days certified by the Chairman of the Committee; the pay of the Sergeant-at-Arms shall be six ($6.00) dollars per diem,

and the Assistant Sergeant-at-Arms shall be five ($5.00) dollars per diem; the pay of the Messengers of the Convention shall be four ($4.00) dollars per diem each; the pay of the Door-Keeper shall be five ($5.00) dollars per diem; the pay of Pages shall be three ($3.00) dollars per diem each; the pay of the Janitor shall be two ($2.00) dollars per diem; the pay of the Chaplain shall be one hundred dollars. The Recording Clerk shall complete his work after the adjournment of the Convention, under the supervision of the Secretary of State, and shall be paid for the same fifty dollars when his work is completed. Eighteen dollars shall be paid W. R. Carter for services as Assistant Secretary for three days. Messrs. Dorr & Bowen shall be paid for printing the amount approved by the Committee on Printing, certified by the President and Secretary of the Convention.

Sec. 3. The Comptroller is required to draw his warrant on the Treasurer in favor of the officers and employees of this Convention for the full amount allowed them by section two, and to each delegate of this Convention for his pro rata share of the amount appropriated by the Legislature, after deducting from said amount the amount due said employees and all other expenses, including mileage of members, incurred by this Convention.

Sec. 4. The President is authorized on behalf of this Convention to issue certificates signed by himself and countersigned by the Secretary, to each of the members, payable to himself or his order, bearing interest at the rate of eight per cent. per annum from date, for the amount remaining due on account of the deficiency of the Legislative appropriation for expenses of this Convention.

Sec. 5. The Legislature shall make an appropriation at its next session to pay said certificates.

Sec. 6. *Be it further enacted*, That the Secretary of this Convention be and he is hereby authorized to audit the accounts of the members and all other expenses.

Done in open Convention, at Tallahassee, this 3d day of August, A. D. eighteen hundred and eighty-five, and of the independence of the Uniited States the one hundred and tenth year.

S. Pasco, *President.*
J. E. Yonge, *First Vice-President.*
Wm. H. Reynolds, *Secretary Convention.*

AMENDMENTS

(Article III, sec. 3, 1896)

Sec. 3. The members of the House of Representatives of the State of Florida shall be chosen biennially beginning with the general election on the first Tuesday after the first Monday in November, 1898, and thereafter on the corresponding day of every second year.

(Article III, sec. 17, 1896)

Sec. 17. Every bill shall be read by its title, on its first reading, in either house, unless one-third of the members present desire it read by sections. Every bill shall be read on three several days unless two-thirds of the members present when such bill may be pending shall deem it expedient to dispense with this rule. Every bill shall be read

by its sections on its second reading and on its final passage, unless on its second reading two-thirds of the members present in the House where such bill may be pending, shall deem it expedient to dispense with this rule. The vote on the final passage of every bill or joint resolution shall be taken by yeas and nays to be entered on the Journal of each House; Provided, That any general revision of the entire laws embodied in any bill shall not be required to be read by sections upon its final passage, and its reading may be wholly dispensed with by a two-third vote. A majority of the members present in each house shall be necessary to pass every bill or joint resolution, all bills or joint resolutions so passed shall be signed by the presiding officer of the respective Houses and by the Secretary of the Senate and the Clerk of the House of Representatives.

(Article IV, sec. 12, 1896)

SEC. 12. The Governor, Secretary of State, Comptroller, Attorney-General and Commissioner of Agriculture or a major part of them, of whom the Governor shall be one, may upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishment and grant pardon after conviction, in all cases except treason and impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons.

(Article V, sec. 22, 1896)

SEC. 22. The Justices of the Peace shall have jurisdiction in cases at law in which the demand or value of the property involved does not exceed $100.00 and in which the cause of action accrued or the defendent resides in his district; and in such criminal cases, except felonies, as may be prescribed by law, and he shall have power to issue process for the arrest of all persons charged with felonies and misdemeanors not within his jurisdiction.

(Article VI, 1894)

SUFFRAGE AND ELIGIBILITY

SECTION 1. Every male person of the age of twenty-one years and upwards, that shall, at the time of registration, be a citizen of the United States, and that shall have resided and had his habitation, domicile, home and place of permanent abode in Florida for one year and in the county for six months, shall in such county be deemed a qualified elector at all elections under this Constitution. Naturalized citizens of the United States at the time of and before registration shall produce to the registration officer his certificate of naturalization or a duly certified copy thereof.

(Article VII, sec. 2, 1896)

SEC. 2. The Legislature shall consist of not more than thirty-two members of the Senate, and of not more than sixty-eight members of the House of Representatives. The members of the House of Representatives shall be elected for terms of two years, and the members

of the Senate shall be elected for terms of four years, except as hereinafter provided. The elections for members of the House of Representatives and Senate shall be at the same time and places. The terms of office of the Senators elected in October A. D. 1896, shall expire on the first Tuesday after the first Monday in November A. D. 1900, and the terms of those elected in November A. D. 1898, shall expire on the first Tuesday after the first Monday in November A. D. 1902, and thereafter all Senators shall be elected for four years.

(Article XII, sec. 7, 1894)

SEC. 7. Provision shall be made by law for the apportionment and distribution of the interest on the State School Fund and all other means provided, including the special tax, for the support and maintenance of public free schools, among the several counties of the State in proportion to the average attendance upon schools in the said counties respectively.

(Article XVI, sec. 6, 1896)

SEC. 6. The Legislature shall provide for the speedy publication and distribution of all laws it may enact. Decisions of the Supreme Court and all laws and judicial decisions shall be free for publication by any person. But no judgment of the Supreme Court shall take effect until the decision of the court in such case shall be filed with the clerk of said court.

(Article XVI, sec. 9, 1894)

SEC. 9. In all criminal cases prosecuted in the name of the State when the defendant is insolvent or discharged, the legal costs and expenses, including the fees of officers, shall be paid by the counties where the crime is committed, under such regulations as shall be prescribed by law; and all fines and forfeitures collected under the penal laws of the State shall be paid into the county treasuries of the respective counties as a general fund.

(Article XVIII, sec. 9, 1896)

SEC. 9. A general election shall be held in each county in this State on the first Tuesday after the first Monday in November, A. D. 1898, and every two years thereafter, for all elective State and County officers, whose terms of office are about to expire, or for any elective office that shall have become vacant.

GEORGIA

For organic acts relating to the lands now included within Georgia, see in this work:

Charter of Virginia, 1606 (Virginia, p. 3783).
Charter of Carolina, 1663 (North Carolina, p. 2743).
Proprietary Proposals, 1663 (North Carolina, p. 2753).
Charter of Carolina, 1665 (North Carolina, p. 2761).
Fundamental Constitutions of Carolina, 1669 (North Carolina, p. 2772).

CHARTER OF GEORGIA—1732 * [a]

GEORGE the second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, and so forth. To all to whom these presents shall come, greeting.

Whereas we are credibly informed, that many of our poor subjects are, through misfortunes and want of employment, reduced to great necessity, insomuch as by their labor they are not able to provide a maintenance for themselves and families; and if they had means to defray their charges of passage, and other expences, incident to new settlements, they would be glad to settle in any of our provinces in America where by cultivating the lands, at present waste and desolate, they might not only gain a comfortable subsistence for themselves and families, but also strengthen our colonies and increase the trade, navigation and wealth of these our realms. And whereas our provinces in North America, have been frequently ravaged by Indian enemies; more especially that of South-Carolina, which in the late war, by the neighboring savages, was laid waste with fire and sword, and great numbers of English inhabitants, miserably massacred, and our loving subjects who now inhabit them, by reason of the smallness of their numbers, will in case of a new war, be exposed to the late calamities; inasmuch as their whole southern frontier continueth unsettled, and lieth open to the said savages—And whereas we think

* The Charters of the following Provinces of North America; Virginia, Maryland, Connecticut, Rhode Island, Pennsylvania, Massachusetts Bay and North American Colonies. In Consequence of the Stamp Act. Printed for W. Owen, at Temple Bar, London, J. Almon in Piccadilly; and F. Blyth at John's Coffee House, Royal Exchange, MDCCLXVI.

[a] Georgia was included in a proprietary charter granted to the lords proprietors of Carolina in 1662–'63, for which a provincial charter was substituted in 1719. The charter of Georgia, as an independent Colony, was granted to a company organized by James Oglethorpe, esq., who desired to provide in the New World homes for indigent persons. This charter was surrendered June 20, 1752, and a provincial government, with a governor and council, was substituted, on the recommendation of the lords commissioners for trade and plantations.

it highly becoming our crown and royal dignity, to protect all our loving subjects, be they ever so distant from us; to extend our fatherly compassion even to the meanest and most unfortunate of our people, and to relieve the wants of our above mentioned poor subjects; and that it will be highly conducive for accomplishing those ends, that a regular colony of the said poor people be settled and established in the southern territories of Carolina. And whereas we have been well assured, that if we will be most graciously pleased to erect and settle a corporation, for the receiving, managing and disposing of the contributions of our loving subjects; divers persons would be induced to contribute to the uses and purposes aforesaid—Know ye therefore, that we have, for the considerations aforesaid, and for the better and more orderly carrying on of the said good purposes; of our special grace, certain knowledge and mere motion, willed, ordained, constituted and appointed, and by these presents, for us, our heirs and successors, do will, ordain, constitute, declare and grant, that our right trusty and well beloved John, lord-viscount Purcival, of our kingdom of Ireland, our trusty and well beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Tower, Robert Moore, Robert Hucks, Roger Holland, William Sloper, Francis Eyles, John Laroche, James Vernon, William Beletha, esquires, A. M. John Burton, B. D. Richard Bundy, A. M. Arthur Bedford, A. M. Samuel Smith, A. M. Adam Anderson and Thomas Corane, gentlemen; and such other persons as shall be elected in the manner herein after mentioned, and their successors to be elected in the manner herein after directed; be, and shall be one body politic and corporate, in deed and in name, by the name of the Trustees for establishing the colony of Georgia in America; and them and their successors by the same name, we do, by these presents, for us, our heirs and successors, really and fully make, ordain, constitute and declare, to be one body politic and corporate in deed and in name forever; and that by the same name, they and their successors, shall and may have perpetual succession; and that they and their successors by that name shall and may forever hereafter, be persons able and capable in the law, to purchase, have, take, receive and enjoy, to them and their successors, any manors, messuages, lands, tenements, rents, advowsons, liberties, privileges, jurisdictions, franchises, and other hereditaments whatsoever, lying and being in Great Britain, or any part thereof, of whatsoever nature, kind or quality, or value they be, in fee and in perpetuity, not exceeding the yearly value of one thousand pounds, beyond reprises; also estates for lives, and for years, and all other manner of goods, chattels and things whatsoever they be; for the better settling and supporting, and maintaining the said colony, and other uses aforesaid; and to give, grant, let and demise the said manors, messuages, lands, tenements, hereditaments, goods, chattels and things whatsoever aforesaid, by lease or leases, for term of years, in possession at the time of granting thereof, and not in reversion, not exceeding the term of thirty-one years, from the time of granting thereof; on which in case no fine be taken, shall be reserved the full value, and in case a fine be taken, shall be reserved at least a moiety of the full value that the same shall reasonably and *bona fide* be worth at the time of such demise; and that they and their successors, by the name aforesaid, shall and may forever hereafter, be persons able,

capable in the law, to purchase, have, take, receive, and enjoy, to them and their successors, any lands, territories, possessions, tenements, jurisdictions, franchises and hereditaments whatsoever, lying and being in America, of what quantity, quality or value whatsoever they be, for the better settling and supporting and maintaining the said colony; and that by the name aforesaid they shall and may be able to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places whatsoever, and before whatsoever judges, justices, and other officers, of us, our heirs and successors, in all and singular actions, plaints, pleas, matters, suits and demands, of what kind, nature or quality soever they be; and to act and to do, all matters and things in as ample manner and form as any other our liege subjects of this realm of Great Britain, and that they and their successors forever hereafter, shall and may have a common seal, to serve for the causes and business of them and their successors: and that it shall and may be lawful for them and their successors, to change, break, alter and make new the said seal, from time to time, and at their pleasure, and as they shall think best.

And we do further grant, for us, our heirs and successors, that the said corporation, and the common council of the said corporation, hereinafter by us appointed, may from time to time, and at all times, meet about their affairs when and where they please, and transact and carry on the business of the said corporation. And for the better execution of the purposes aforesaid, we do, by these presents, for us, our heirs and successors, give & grant to the said corporation, and their successors, that they and their successors forever, may upon the third Thursday in the month of March, yearly, meet at some convenient place to be appointed by the said corporation, or major part of them who shall be present at any meeting of the said corporation, to be had for the appointing of the said place; and that they, or two thirds of such of them, that shall be present at such yearly meeting, and at no other meeting of the said corporation, between the hours of ten in the morning and four in the afternoon of the same day, choose and elect such person or persons to be members of the said corporation, as they shall think beneficial to the good designs of the said corporation. And our further will and pleasure is, that if it shall happen that any person hereinafter by us appointed, as the common council of the said corporation, or any persons to be elected or admitted members of the said common council in the manner hereafter directed, shall die, or shall by writing under his and their hands respectively resign his or their office or offices of common council man or common council men; the said corporation, or the major part of such of them as shall be present, shall and may at such meeting, on the said third Thursday in March yearly, in manner as aforesaid, next after such death or resignation, and at no other meeting of the said corporation, into the room or place of such person or persons so dead or so resigning, elect and choose one or more such person or persons, being members of the said corporation, as to them shall seem meet; and our will is, that all and every the person or persons which shall from time to time hereafter be elected common council men of the said corporation as aforesaid, do and shall, before he or they act as common men of the said corporation, take an oath for the faithful and due execution of their

office; which oath the president of the said corporation for the time being, is hereby authorized and required to administer to such person or persons elected as aforesaid. And our will and pleasure is, that the first president of the said corporation is and shall be our trusty and well-beloved, the said Lord John Viscount Percival; and that the said president shall, within thirty days after the passing this charter, cause a summons to be issued to the several members of the said corporation herein particularly named, to meet at such time and place as he shall appoint, to consult about and transact the business of said corporation. And our will and pleasure is, and we, by these presents, for us, our heirs, and successors, grant, ordain, and direct, that the common council of this corporation shall consist of fifteen in number; and we do, by these presents, nominate, constitute, and appoint our right trusty and well-beloved John Lord Viscount Percival, our trusty and beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Laroche, James Vernon, William Beletha, esqrs., and Stephen Hales, Master of Arts, to be the common council of the said corporation, to continue in the said office during their good behavior. And whereas it is our royal intention, that the members of the said corporation should be increased by election, as soon as conveniently may be, to a greater number than is hereby nominated; Our further will and pleasure is, and we do hereby, for us, our heirs and successors, ordain and direct, that from the time of such increase of the members of the said corporation, the number of the said common council shall be increased to twenty-four; and that the same assembly at which such additional members of the said corporation shall be chosen, there shall likewise be elected in the manner hereinbefore directed for the election of common council men, nine persons to be the said common council men, and to make up the number thereof twenty-four. And our further will and pleasure is, that our trusty and well beloved Edward Digby, esquire, shall be the first chairman of the common council of the said corporation; and that the said lord-viscount Purcival shall be, and continue, president of the said corporation, and that the said Edward Digby shall be and continue chairman of the common council of the said corporation, respectively, until the meeting which shall be had next and immediately after the first meeting of the said corporation, or of the common council of the said corporation respectively, and no longer; at which said second meeting, and every other subsequent and future meeting of the said corporation or of the common council of the said corporation respectively, in order to preserve an indifferent rotation of the several offices, of president of the corporation, and of chairman of the common council of the said corporation we do direct and ordain that all and every the person and persons, members of the said common council for the time being, and no other, being present at such meetings, shall severally and respectively in their turns, preside at the meetings which shall from time to time be held of the said corporation, or of the common council of the said corporation respectively: and in case any doubt or question shall at any time arise touching or concerning the turn or right of any member of the said common council to preside at any meeting of the said corporation, or at the common council of the said corporation, the same shall respectively be determined by

the major part of the said corporation, or of the common council of the said corporation respectively, who shall be present at such meeting. Provided always, that no member of the said common council having served in the offices of president of the said corporation, or of chairman of the common council of the said corporation, shall be capable of being, or of serving as president or chairman at any meeting of the said corporation, or common council of the said corporation next and immediately ensuing that in which he so served as president of the said corporation or chairman of the said common council of the said corporation respectively; unless it shall so happen that at any such meeting of the said corporation, there shall not be any other member of the said common council present.

And our will and pleasure is, that at all and every of the meetings of the said corporation, or of the common council of the said corporation, the president or chairman for the time being, shall have a voice and shall vote, and shall act as a member of the said corporation or of the common council of the said corporation, at such meeting; and in case of any equality of votes, the said president or chairman for the time being, shall have and exercise a casting vote. And our further will and pleasure is, that no president of the said corporation, or chairman of the common council of the said corporation, or member of the said common council or corporation, by us by these presents appointed, or hereafter from time to time to be elected and appointed in manner aforesaid, shall have, take, or receive, directly or indirectly, any salary, fee, perquisite, benefit or profit whatsoever, for or by reason of his or their serving the said corporation, or common council of the said corporation, or president, chairman or common councilman, or as being a member of the said corporation. And our will and pleasure is, that the said herein before appointed president, chairman or common council-men, before he and they act respectively as such, shall severally take an oath for the faithful and due execution of their trust, to be administered to the president by the Chief Baron of our Court of Exchequer, for the time being, and by the president of the said corporation to the rest of the common council, who are hereby authorised severally and respectively, to administer the same. And our will and pleasure is, that all and every person and persons, shall have in his or their own name or names, or in the name or names of any person or persons in trust for him or them, or for his or their benefit, any place, office or employment of profit, under the said corporation, shall be incapable of being elected a member of the said corporation; and if any member of the said corporation during such time as he shall continue a member thereof, shall in his own name or in the name of any person or persons, in trust for him or for his benefit, have, hold or exercise, accept, possess or enjoy, any office, place or employment of profit, under the said corporation, or under the common council of the said corporation—such member shall from the time of his having, holding, exercising, accepting possessing and enjoying such office, place and employment of profit, cease to be a member of the said corporation. And we do for us, our heirs and successors, grant unto the said corporation, that they and their successors or the major part of such of them as shall be present at any meeting of the said corporation, convened and assembled for that purpose by a convenient notice thereof, shall have power from time to time, and at all

times hereafter, to authorize and appoint such persons as they shall think fit to take subscriptions, and to gather and collect such moneys as shall be by any person or persons contributed for the purposes aforesaid; and shall and may revoke and make void such authorities and appointments, as often as they shall see cause so to do.

And we do hereby for us, our heirs and successors, ordain and direct, that the said corporation shall every year lay an account in writing before the chancellor, or speaker, or commissioners, for the custody of the great seal of Great-Britain, of us, our heirs and successors: the Chief Justice of the Court of King's Bench, the Master of Rolls the Chief Justice of the Court of Common Pleas, and the chief Baron of the Exchequer of us, our heirs and successors for the time being, or any two of them; of all moneys and effects by them received or expended, for the carrying on of the good purposes aforesaid. And we do hereby, for us, our heirs and successors, give and grant unto the said corporation, and their successors, full power and authority to constitute, ordain and make, such and so many by-laws, constitutions, orders and ordinances, as to them, or the greater part of them, at their general meeting for that purpose, shall seem necessary and convenient for the well ordaining and governing of the said corporation; and the said by-laws, constitutions, orders and ordinances, or any of them, to alter and annul, as they or the major part of them then present shall see requisite: and in and by such by-laws, rules, orders and ordinances, to sell, impose and inflict, reasonable pains and penalties upon any offender or offenders, who shall transgress, break or violate the said by-laws, constitutions, orders and ordinances, so made as aforesaid, and to mitigate the same as they or the major part of them then present shall find cause, which said pains and penalties, shall and may be levied, sued for, taken, retained and recovered, by the said corporation and their successors, by their officers and servants, from time to time, to be appointed for that purpose, by action of debt, or by any other lawful ways or means, to the use and behoof of the said corporation and their successors, all and singular: which by-laws, constitutions, orders and ordinances, so as aforesaid to be made, we will shall be duly observed and kept, under the pains and penalties therein to be contained, so always, as the said by-laws, constitutions, orders, and ordinances, pains and penalties, from time to time to be made and imposed, be reasonable and not contrary or repugnant to the laws or statutes of this our realm; and that such by-laws, constitutions and ordinances, pains and penalties, from time to time to be made and imposed; and any repeal or alteration thereof, or any of them, may be likewise agreed to be established and confirmed by the said general meeting of the said corporation, to be held and kept next after the same shall be respectively made. And whereas the said corporation intend to settle a colony, and to make an habitation and plantation in that part of our province of South-Carolina, in America, herein after described.

Know ye, therefore that we greatly desiring the happy success of the said corporation, for their further encouragement in accomplishing so excellent a work have of our aforesaid grace, certain knowledge and mere motion, given and granted by these presents, for us, our heirs and successors, do give and grant to the said corporation and their successors under the reservation, limitation and declaration,

hereafter expressed, seven undivided parts, the whole in eight equal parts to be divided, of all those lands, countrys and territories, situate, lying and being in that part of South-Carolina, in America, which lies from the most northern part of a stream or river there, commonly called the Savannah, all along the sea coast to the southward, unto the most southern stream of a certain other great water or river called the Alatamaha, and westerly from the heads of the said rivers respectively, in direct lines to the south seas; and all that share, circuit and precinct of land, within the said boundaries, with the islands on the sea, lying opposite to the eastern coast of the said lands, within twenty leagues of the same, which are not inhabited already, or settled by any authority derived from the crown of Great-Britain: together with all the soils, grounds, havens, ports, gulfs and bays, mines, as well royal mines of gold and silver, as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well royal fishings of whale and sturgeon as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges and pre-eminences within the said frontiers and precincts thereof and thereunto, in any sort belonging or appertaining, and which we by our letters patent may or can grant, and in as ample manner and sort as we may or any of our royal progenitors have hitherto granted to any company, body politic or corporate, or to any edventurer or adventurers, undertaker or undertakers, of any discoveries, plantations or traffic, of, in, or unto any foreign parts whatsoever; and in as large and ample manner, as if the same were herein particularly mentioned and expressed: to have, hold, possess and enjoy, the said seven undivided parts, the whole into eight equal parts, to be divided as aforesaid, of all and singular the lands, countries and territories, with all and singular other the premises herein before by these presents granted or mentioned, or intended to be granted to them, the said corporation, and their successors forever, for the better support of the said colony, to be holden of us, our heirs and successors, as of our honour of Hampton-court, in our county of Middlesex in free and common soccage, and not in capite, yielding, and paying therefor to us, our heirs and successors yearly forever, the sum of four shillings for every hundred acres of the said lands, which the said corporation shall grant, demise, plant or settle; the said payment not to commence or to be made, until ten years after such grant, demise, planting or settling; and to be answered and paid to us, our heirs and successors, in such manner and in such species of money or notes, as shall be current in payment, by proclamation from time to time, in our said province of South-Carolina. All which lands, countries, territories and premises, hereby granted or mentioned, and intended to be granted, we do by these presents, make, erect and create one independent and separate province, by the name of Georgia, by which name we will, the same henceforth be called. And that all and every person or persons, who shall at any time hereafter inhabit or reside within our said province, shall be, and are hereby declared to be free, and shall not be subject to or be bound to obey any laws, orders, statutes or constitutions, which have been heretofore made, ordered or enacted by, for, or as, the laws, orders, statutes or constitutions of our said province of South-Carolina, (save and except only the commander in chief of the militia, of our said province of Georgia, to our governor

for the time being of South-Carolina, in manner hereafter declared;) but shall be subject to, and bound to obey, such laws, orders, statutes and constitutions as shall from time to time be made, ordered and enacted, for the better government of the said province of Georgia, in the manner hereinafter declared.

And we do hereby, for our heirs and successors, ordain, will and establish, that for and during the term of twenty-one years, to commence from the date of these our letters patent, the said corporation assembled for that purpose, shall and may form and prepare, laws, statutes and ordinances, fit and necessary for and concerning the government of the said colony, and not repugnant to the laws and statutes of England; and the same shall and may present under their common seal to us, our heirs and successors, in our or their privy council for our or their approbation or disallowance: and the said laws, statutes and ordinances, being approved of by us, our heirs and successors, in our or their privy council, shall from thence forth be in full force and virtue within our said province of Georgia. And forasmuch as the good and prosperous success of the said colony cannot but chiefly depend, next under the blessing of God, and the support of our royal authority, upon the provident and good direction of the whole enterprise, and that it will be too great a burthen upon all the members of the said corporation to be convened so often as may be requisite, to hold meetings for the settling, supporting, ordering, and maintaining the said colony: therefore we do will, ordain and establish, that the said common council for the time being, of the said corporation, being assembled for that purpose, or the major part of them, shall from time to time, and at all times hereafter, have full power and authority to dispose of, extend and apply all the monies and effects belonging to the said corporation, in such manner and ways and by such expenses as they shall think best to conduce to the carrying on and effecting the good purposes herein mentioned and intended; and also shall have full power in the name and on account of the said corporation, and with and under their common seal, to enter under any covenants or contracts, for carrying on and effecting the purposes aforesaid. And our further will and pleasure is, that the said common council for the time being, or the major part of such common council, which shall be present and assembled for that purpose, from time to time, and at all times hereafter, shall and may nominate, constitute and appoint a treasurer or treasurers, secretary or secretaries, and such other officers, ministers and servants of the said corporation as to them or the major part of them as shall be present, shall seem proper or requisite for the good management of their affairs; and at their will and pleasure to displace, remove and put out such treasurer or treasurers, secretary or secretaries, and all such other officers, ministers and servants, as often as they shall think fit so to do; and others in the room, office, place or station of him or them so displaced, remove or put out, to nominate, constitute and appoint; and shall and may determine and appoint, such reasonable salaries, perquisites and other rewards, for their labor, or service of such officers, servants and persons as to the said common council shall seem meet; and all such officers servants and persons shall, before the acting of their respec-

tive offices, take an oath to be to them administered by the chairman for the time being of the said common council of the said corporation, who is hereby authorized to administer the same, for the faithful and due execution of their respective offices and places.

And our will and pleasure is, that all and every person and persons, who shall from time to time be chosen or appointed treasurer or treasurers, secretary or secretaries of the said corporation, in manner herein after directed, shall during such times as they shall serve in the said offices respectively, be incapable of being a member of the said corporation. And we do further of our special grace, certain knowledge and mere motion, for us, our heirs and successors, grant, by these presents, to the said corporation and their successors, that it shall be lawful for them and their officers or agents, at all times hereafter, to transport and convey out of our realm of Great-Britain, or any other of our dominions, into the said province of Georgia, to be there settled all such so many of our loving subjects, or any foreigners that are willing to become our subjects, and live under our allegiance, in the said colony, as shall be willing to go to, inhabit, or reside there, with sufficient shipping, armour, weapons, powder, shot, ordnance, munition, victuals, merchandise and wares, as are esteemed by the wild people; clothing, implements, furniture, cattle, horses, mares, and all other things necessary for the said colony, and for the use and defence and trade with the people there, and in passing and returning to and from the same. Also we do, for ourselves and successors, declare, by these presents, that all and every the persons which shall happen to be born within the said province, and every of their children and posterity, shall have and enjoy all liberties, franchises and immunities of free denizens and natural born subjects, within any of our dominions, to all intents and purposes, as if abiding and born within this our kingdom of Great-Britain, or any other of our dominions——And for the greater ease and encouragement of our loving subjects and such others as shall come to inhabit in our said colony, we do by these presents, for us, our heirs and successors, grant, establish and ordain, that forever hereafter, there shall be a liberty of conscience allowed in the worship of God, to all persons inhabiting, or which shall inhabit or be resident within our said province, and that all such persons, except papists, shall have a free exercise of their religion, so they be contented with the quiet and peaceable enjoyment of the same, not giving offence or scandal to the government. And our further will and pleasure is, and we do hereby for us, our heirs and successors, declare and grant, that it shall and may be lawful for the said common council, or the major part of them assembled for that purpose, in the name of the corporation, and under the common seal, to distribute, convey, assign and set over such particular portions of lands, tenements and hereditaments by these presents granted to the said corporation, unto such our loving subjects, natural born, denizens or others that shall be willing to become our subjects, and live under our allegiance in the said colony, upon such terms, and for such estates, and upon such rents, reservations and conditions as the same may be lawfully granted, and as to the said common council, or the major part of them so present, shall seem fit and proper. Provided always that no grants shall be made of any part of the said lands

unto any person, being a member of the said corporation, or to any other person in trust, for the benefit of any member of the said corporation; and that no person having any estate or interest, in law or equity, in any part of the said lands, shall be capable of being a member of the said corporation, during the continuance of such estate or interest. Provided also, that no greater quantity of lands be granted, either entirely or in parcels, to or for the use, or in trust for any one person, than five hundred acres: and that all grants made contrary to the true intent and meaning hereof, shall be absolutely null and void.

And we do hereby grant and ordain, that such person or persons, for the time being as shall be thereunto appointed by the said corporation, shall and may at all times, and from time to time hereafter, have full power and authority to administer and give the oaths, appointed by an act of parliament, made in the first year of the reign of our late royal father, to be taken instead of the oaths of allegiance and supremacy; and also the oath of abjuration, to all and every person and persons which shall at any time be inhabiting or residing within our said colony; and in like cases to administer the solemn affirmation to any of the persons commonly called quakers, in such manner as by the laws of our realm of Great-Britain, the same may be administered. And we do, of our further grace, certain knowledge and mere motion, grant, establish and ordain, for us, our heirs and successors, that the said corporation and their successors, shall have full power and authority, for and during the term of twenty-one years, to commence from the date of these our letters patent, to erect and constitute judicatories and courts of record, or other courts, to be held in the name of us, our heirs and successors for the hearing and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes and things whatsoever, arising or happening, within the said province of Georgia, or between persons of Georgia; whether the same be criminal or civil, and whether the said crimes be capital or not capital, and whether the said pleas be real, personal or mixed: and for awarding and making out executions thereupon; to which courts and judicatories, we do hereby, for us, our heirs and successors, give and grant full power and authority, from time to time, to administer oaths for the discovery of truth in any matter in controversy, or depending before them, or the solemn affirmation, to any of the persons commonly called quakers, in such manner, as by the laws of our realm of Great-Britain, the same may be administered.

And our further will and pleasure is, that the said corporation and their successors, do from time to time, and at all times hereafter, register or cause to be registered, all such leases, grants, plantings, conveyances, settlements, and improvements whatsoever, as shall at any time hereafter be made by, or in the name of the said corporation, or any lands, tenements or hereditaments within the said province; and shall yearly send and transmit, or cause to be sent or transmitted, authentic accounts of such leases, grants, conveyances, settlements and improvements respectively, unto the auditor of the plantations for the time being, or his deputy, and also to our surveyor for the time being of our said province of South-Carolina; to whom we do hereby grant full power and authority from time to time, as often as need shall require, to inspect and survey, such of the said lands and premises, as shall be demised, granted and settled as aforesaid: which said

survey and inspection, we do hereby declare, to be intended to ascertain the quitrents which shall from time to time become due to us, our heirs and successors, according to the reservation herein before mentioned, and for no other purposes whatsoever; hereby for us, our heirs and successors, strictly enjoining and commanding, that neither our or their surveyor, or any person whatsoever, under the pretext and colour of making the said survey or inspection, shall take, demand or receive, any gratuity, fee or reward, of or from, any person or persons, inhabiting in the said colony, or from the said corporation or common council thereof, on the pain of forfeiture of the said office or offices, and incurring our highest displeasure. Provided always, and our further will and pleasure is, that all leases, grants and conveyances to be made by or in the name of the said corporation, of any lands within the said province, or a memorial containing the substance and effect thereof, shall be registered with the auditor of the said plantations, of us, our heirs and successors, within the space of one year, to be computed from the date thereof, otherwise the same shall be void.

And our further will and pleasure is, that the rents, issues and all other profits, which shall at any time hereafter come to the said corporation, or the major part of them which shall be present at any meeting for that purpose assembled, shall think will most improve and enlarge the said colony, and best answer the good purposes herein before mentioned, and for defraying all other charges about the same. And our will and pleasure is, that the said corporation and their successors, shall from time to time give in to one of the principal secretaries of state, and to the commissioners of trade and plantations, accounts of the progresses of the said colony. And our will and pleasure is that no act done at any meeting of the said common council of the said corporation, shall be effectual and valid, unless eight members at least of the said common council, including the member who shall serve as chairman at the said meeting, be present, and the major part of them consenting thereunto. And our will and pleasure is, that the common council of the said corporation for the time being, or the major part of them who shall be present, being assembled for that purpose, shall from time to time, for, and during, and unto the full end and expiration of twenty-one years, to commence from the date of these our letters patent, have full power and authority to nominate, make, constitute and commission, ordain and appoint, by such name or names, style or styles, as to them shall seem meet and fitting, all and singular such governors, judges, magistrates, ministers and officers, civil and military, both by sea and land, within the said districts, as shall by them be thought fit and needful to be made or used for the said government of the said colony; save always, and except such offices only as shall by us, our heirs and successors, be from time to time constituted and appointed, for the managing collecting and receiving such revenues, as shall from time to time arise within the said province of Georgia, and become due to us, our heirs and successors.

Provided always, and it is our will and pleasure, that every governor of the said province of Georgia, to be appointed by the common council of the said corporation, before he shall enter upon or execute the said office of governor, shall be approved by us, our heirs or successors, and shall take such oaths, and shall qualify himself in such

manner, in all respects, as any governor or commander in chief of any of our colonies or plantations in America, are by law required to do; and shall give good and sufficient security for observing the several acts of parliament relating to trade and navigation, and to observe and obey all instructions that shall be sent to him by us, our heirs and successors, or any acting under our or their authority, pursuant to the said acts, or any of them. And we do by these presents for us, our heirs and successors, will, grant and ordain, that the said corporation and their successors, shall have full power for and during and until the full end and term of twenty-one years, to commence from the date of these our letters patent, by any commander or other officer or officers, by them for that purpose from time to time appointed, to train and instruct, exercise and govern a militia, for the special defence and safety of our said colony, to assemble in martial array, the inhabitants of the said colony, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within or without the limits of our said colony; and also to kill, slay and destroy, and conquer by all fitting ways, enterprizes and means whatsoever, all and every such person or persons as shall at any time hereafter, in any hostile manner, attempt or enterprize the destruction, invasion, detriment or annoyance of our said colony; and to use and exercise the martial law in time of actual war and invasion or rebellion, in such cases, where by law the same may be used or exercised; and also from time to time to erect forts, and fortify any place or places within our said colony, and the same to furnish with all necessary ammunition, provisions and stores of war, for offence and defence, and to commit from time to time the custody or government of the same, to such person or persons as to them shall seem meet: and the said forts and fortifications to demolish at their pleasure; and to take and surprize, by all ways and means, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall in an hostile manner, invade or attempt the invading, conquering or annoying of our said colony. And our will and pleasure is, and we do hereby, for us, our heirs and successors, declare and grant, that the governor and commander in chief of the province of South-Carolina, of us, our heirs and successors, for the time being, shall at all times hereafter have the chief command of the militia of our said province, hereby erected and established; and that such militia shall observe and obey all orders and directions, that shall from time to time be given or sent to them by the said governor or commander in chief; any thing in these presents before contained to the contrary hereof, in any wise notwithstanding. And, of our more special grace, certain knowledge and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said corporation and their successors, full power and authority to import and export their goods, at and from any port or ports that shall be appointed by us, our heirs and successors, within the said province of Georgia, for that purpose, without being obliged to touch at any other port in South-Carolina. And we do, by these presents, for us, our heirs and successors, will and declare, that from and after the termination of the said term or twenty-one years, such form of government and method of making laws, statutes and ordinances, for

the better governing and ordering the said province of Georgia, and the inhabitants thereof, shall be established and observed within the same, as we, our heirs and successors, shall hereafter ordain and appoint, and shall be agreeably to law; and that from and after the determination of the said term of twenty-one years, the governor of our said province of Georgia, and all officers civil and military, within the same, shall from time to time be nominated and constituted, and appointed by us, our heirs and successors. And lastly, we do hereby, for us, our heirs and successors, grant unto the said corporation and their successors, that these our letters patent, or the enrolments or exemplification thereof, shall be in and by all things good, firm, valid, sufficient and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged, in all courts and elsewhere in the most favorable and beneficial sense, and for the best advantage of the said corporation and their successors any omission, imperfection, defect, matter or cause, or thing whatsoever to the contrary, in any wise notwithstanding. In witness, whereof we have caused these our letters to be made patent: witness ourself at Westminster, the ninth day of June, in the fifth year of our reign.

By writ of privy-seal.

COOKS.

CONSTITUTION OF GEORGIA—1777 *[a]

Whereas the conduct of the legislature of Great Britain for many years past has been so oppressive on the people of America that of late years they have plainly declared and asserted a right to raise taxes upon the people of America, and to make laws to bind them in all cases whatsoever, without their consent; which conduct, being repugnant to the common rights of mankind, hath obliged the Americans, as freemen, to oppose such oppressive measures, and to assert the rights and privileges they are entitled to by the laws of nature and reason; and accordingly it hath been done by the general consent of all the people of the States of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the counties of New Castle, Kent, and Sussex on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, given by their representatives met together in general Congress, in the city of Philadelphia;

And whereas it hath been recommended by the said Congress, on the fifteenth of May last, to the respective assemblies and conventions of the United States, where no government, sufficient to the exigencies of their affairs, hath been hitherto established, to adopt such government as may, in the opinion of the representatives of

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* Verified from "Watkin's Digest of the Laws of the State of Georgia, Philadelphia; 1800," pp. 7–16.

[a] This constitution was framed by a convention which assembled at Savannah October 1, 1776, in accordance with the recommendation of the Continental Congress that the people of the Colonies should form independent State governments. It was unanimously agreed to February 5, 1777. It was not submitted to the people.

the people, best conduce to the happiness and safety of their constituents in particular and America in general;

And whereas the independence of the United States of America has been also declared, on the fourth day of July, one thousand seven hundred and seventy-six, by the said honorable Congress, and all political connection between them and the Crown of Great Britain is in consequence thereof dissolved:

We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare, and it is hereby ordained and declared, that the following rules and regulations be adopted for the future government of this State:

ARTICLE I. The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

ART. II. The legislature of this State shall be composed of the representatives of the people, as is hereinafter pointed out; and the representatives shall be elected yearly, and every year, on the first Tuesday in December; and the representatives so elected shall meet the first Tuesday in January following, at Savannah, or any other place or places where the house of assembly for the time being shall direct.

On the first day of the meeting of the representatives so chosen, they shall proceed to the choice of a governor, who shall be styled "*honorable;*" and of an executive council, by ballot out of their own body, viz: two from each county, except those counties which are not yet entitled to send ten members. One of each county shall always attend, where the governor resides, by monthly rotation, unless the members of each county agree for a longer or shorter period. This is not intended to exclude either member attending. The remaining number of representatives shall be called the house of assembly; and the majority of the members of the said house shall have power to proceed on business.

ART. III. It shall be an unalterable rule that the house of assembly shall expire and be at an end, yearly and every year, on the day preceding the day of election mentioned in the foregoing rule.

ART. IV. The representation shall be divided in the following manner: ten members from each county, as is hereinafter directed, except the county of Liberty, which contains three parishes, and that shall be allowed fourteen.

The ceded lands north of Ogechee shall be one county, and known by the name of Wilkes.

The parish of Saint Paul shall be another county, and known by the name of Richmond.

The parish of Saint George shall be another county, and known by the name of Burke.

The parish of Saint Matthew, and the upper part of Saint Philip, above Canouchee, shall be another county, and known by the name of Effingham.

The parish of Christ Church, and the lower part of Saint Philip, below Canouchee, shall be another county, and known by the name of Chatham.

The parishes of Saint John, Saint Andrew, and Saint James shall be another county, and known by the name of Liberty.

The parishes of Saint David and Saint Patrick shall be another county, and known by the name of Glynn.

The parishes of Saint Thomas and Saint Mary shall be another county, and known by the name of Camden.

The port and town of Savannah shall be allowed four members to represent their trade.

The port and town of Sunbury shall be allowed two members to represent their trade.

ART. V. The two counties of Glynn and Camden shall have one representative each, and also they, and all other counties that may hereafter be laid out by the house of assembly, shall be under the following regulations, viz: at their first institution each county shall have one member, provided the inhabitants of the said county shall have ten electors; and if thirty, they shall have two; if forty, three; if fifty, four; if eighty, six; if a hundred and upward, ten; at which time two executive councillors shall be chosen from them, as is directed for the other counties.

ART. VI. The representatives shall be chosen out of the residents in each county, who shall have resided at least twelve months in this State, and three months in the county where they shall be elected; except the freeholders of the counties of Glynn and Camden, who are in a state of alarm, and who shall have the liberty of choosing one member each, as specified in the articles of this constitution, in any other county, until they have residents sufficient to qualify them for more; and they shall be of the Protestent religion, and of the age of twenty-one years, and shall be possessed in their own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

ART. VII. The house of assembly shall have power to make such laws and regulations as may be conducive to the good order and well-being of the State; provided such laws and regulations be not repugnant to the true intent and meaning of any rule or regulation contained in this constitution.

The house of assembly shall also have power to repeal all laws and ordinances they find injurious to the people; and the house shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies, and shall have power of adjournment to any time or times within the year.

ART. VIII. All laws and ordinances shall be three times read, and each reading shall be on different and separate days, except in cases of great necessity and danger; and all laws and ordinances shall be sent to the executive council after the second reading, for their perusal and advice.

ART. IX. All male white inhabitants, of the age of twenty-one years, and possessed in his own right of ten pounds value, and liable to pay tax in this State, or being of any mechanic trade, and shall have been resident six months in this State, shall have a right to vote at all elections for representatives, or any other officers, herein agreed to be chosen by the people at large; and every person having a right to vote at any election shall vote by ballot personally.

ART. X. No officer whatever shall serve any process, or give any other hinderances to any person entitled to vote, either in going to the place of election, or during the time of the said election, or on their

returning home from such election; nor shall any military officer, or soldier, appear at any election in a military character, to the intent that all elections may be free and open.

ART. XI. No person shall be entitled to more than one vote, which shall be given in the county where such person resides, except as before excepted; nor shall any person who holds any title of nobility be entitled to a vote, or be capable of serving as a representative, or hold any post of honor, profit, or trust in this State, whilst such person claims his title of nobility; but if the person shall give up such distinction, in the manner as may be directed by any future legislation, then, and in such case, he shall be entitled to a vote, and represent, as before directed, and enjoy all the other benefits of a free citizen.

ART. XII. Every person absenting himself from an election, and shall neglect to give in his or their ballot at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery, and also the appropriation thereof, to be pointed out and directed by act of the legislature: *Provided, nevertheless*, That a reasonable excuse shall be admitted.

ART. XIII. The manner of electing representatives shall be by ballot, and shall be taken by two or more justices of the peace in each county, who shall provide a convenient box for receiving the said ballots: and, on closing the poll, the ballots shall be compared in public with the list of votes that have been taken, and the majority immediately declared; a certificate of the same being given to the persons elected, and also a certificate returned to the house of representatives.

ART. XIV. Every person entitled to vote shall take the following oath or affirmation, if required, viz:

"I, A B, do voluntarily and solemnly swear (or affirm, as the case may be) that I do owe true allegiance to this State, and will support the constitution thereof; so help me God."

ART. XV. Any five of the representatives elected, as before directed, being met, shall have power to administer the following oath to each other; and they, or any other member, being so sworn, shall, in the house, administer the oath to all other members that attend, in order to qualify them to take their seats, viz:

"I, A B, do solemnly swear that I will bear true allegiance to the State of Georgia, and will truly perform the trusts reposed in me; and that I will execute the same to the best of my knowledge, for the benefit of this State, and the support of the constitution thereof, and that I have obtained my election without fraud or bribe whatever; so help me God."

ART. XVI. The continental delegates shall be appointed annually by ballot, and shall have a right to sit, debate, and vote in the house of assembly, and be deemed a part thereof, subject, however, to the regulations contained in the twelfth article of the Confederation of the United States.

ART. XVII. No person bearing any post of profit under this State, or any person bearing any military commission under this or any other State or States, except officers of the militia, shall be elected a representative. And if any representative shall be appointed to any place of profit or military commission, which he shall accept, his seat shall immediately become vacant, and he shall be incapable of reëlection whilst holding such office.

By this article it is not to be understood that the office of a justice of the peace is a post of profit.

ART. XVIII. No person shall hold more than one office of profit under this State at one and the same time.

ART. XIX. The governor shall, with the advice of the executive council, exercise the executive powers of government, according to the laws of this State and the constitution thereof, save only in the case of pardons and remission of fines, which he shall in no instance grant; but he may reprieve a criminal, or suspend a fine, until the meeting of the assembly, who may determine therein as they shall judge fit.

ART. XX. The governor, with the advice of the executive council, shall have power to call the house of assembly together, upon any emergency, before the time which they stand adjourned to.

ART. XXI. The governor, with the advice of the executive council, shall fill up all intermediate vacancies that shall happen in offices till the next general election; and all commissions, civil and military, shall be issued by the governor, under his hand and the great seal of the State.

ART. XXII. The governor may preside in the executive council at all times, except when they are taking into consideration and perusing the laws and ordinances offered to them by the house of assembly.

ART. XXIII. The governor shall be chosen annually by ballot, and shall not be eligible to the said office for more than one year out of three, nor shall he hold any military commission under any other State or States.

The governor shall reside at such place as the house of assembly for the time being shall appoint.

ART. XXIV. The governor's oath:

"I, A B, elected governor of the State of Georgia, by the representatives thereof, do solemnly promise and swear that I will, during the term of my appointment, to the best of my skill and judgment, execute the said office faithfully and conscientiously, according to law, without favor, affection, or partiality; that I will, to the utmost of my power, support, maintain, and defend the State of Georgia, and the constitution of the same; and use my utmost endeavors to protect the people thereof in the secure enjoyment of all their rights, franchises, and privileges; and that the laws and ordinances of the State be duly observed, and that law and justice in mercy be executed in all judgments. And I do further solemnly promise and swear that I will peaceably and quietly resign the government to which I have been elected at the period to which my continuance in the said office is limited by the constitution. And, lastly, I do also solemnly swear that I have not accepted of the government whereunto I am elected contrary to the articles of this constitution: so help me God."

This oath to be administered to him by the speaker of the assembly.

The same oath to be administered by the speaker to the president of the council.

No person shall be eligible to the office of governor who has not resided three years in this State.

ART. XXV. The executive council shall meet the day after their election, and proceed to the choice of a president out of their own body; they shall have power to appoint their own officers and settle their own rules of proceedings.

The council shall always vote by counties, and not individually.

ART. XXVI. Every councillor, being present, shall have power of entering his protest against any measures in council he has not consented to, provided he does it in three days.

ART. XXVII. During the sitting of the assembly the whole of the executive council shall attend, unless prevented by sickness, or some other urgent necessity; and, in that case, a majority of the council shall make a board to examine the laws and ordinances sent them by the house of assembly; and all laws and ordinances sent to the council shall be returned in five days after, with their remarks hereon.

ART. XXVIII. A committee from the council, sent with any proposed amendments to any law or ordinance, shall deliver their reasons for such proposed amendments, sitting and covered; the whole house at that time, except the speaker, uncovered.

ART. XXIX. The president of the executive council, in the absence or sickness of the governor, shall exercise all the powers of the governor.

ART. XXX. When any affair that requires secrecy shall be laid before the governor and the executive council, it shall be the duty of the governor, and he is hereby obliged, to administer the following oath, viz:

"I, A B, do solemnly swear that any business that shall be at this time communicated to the council I will not, in any manner whatever, either by speaking, writing, or otherwise, reveal the same to any person whatever, until leave given by the council, or when called upon by the house of assembly; and all this I swear without any reservation whatever; so help me God."

And the same oath shall be administered to the secretary and other officers necessary to carry the business into execution.

ART. XXXI. The executive power shall exist till renewed as pointed out by the rules of this constitution.

ART. XXXII. In all transactions between the legislative and executive bodies the same shall be communicated by message, to be delivered from the legislative body to the governor or executive council by a committee, and from the governor to the house of assembly by the secretary of the council, and from the executive council by a committee of the said council.

ART. XXXIII. The governor for the time being shall be captain-general and commander-in-chief over all the militia, and other military and naval forces belonging to this State.

ART. XXXIV. All militia commissions shall specify that the person commissioned shall continue during good behavior.

ART. XXXV. Every county in this State that has, or hereafter may have, two hundred and fifty men, and upwards, liable to bear arms, shall be formed into a battalion; and when they become too numerous for one battalion, they shall be formed into more, by bill of the legislature; and those counties that have a less number than two hundred and fifty shall be formed into independent companies.

ART. XXXVI. There shall be established in each county a court, to be called a superior court, to be held twice in each year.

On the first Tuesday in March, in the county of Chatham.

The second Tuesday in March, in the county of Effingham.

The third Tuesday in March, in the county of Burke.

The fourth Tuesday in March, in the county of Richmond.
The next Tuesday, in the county of Wilkes.
And Tuesday fortnight, in the county of Liberty.
The next Tuesday, in the county of Glynn.
The next Tuesday, in the county of Camden.
The like courts to commence in October and continue as above.

ART. XXXVII. All causes and matters of dispute, between any parties residing in the same county, to be tried within the county.

ART. XXXVIII. All matters in dispute between contending parties residing in different counties shall be tried in the county where the defendant resides, except in cases of real estate, which shall be tried in the county where such real estate lies.

ART. XXXIX. All matters of breach of the peace, felony, murder, and treason against the State to be tried in the county where the same was committed. All matters of dispute, both civil and criminal, in any county where there is not a sufficient number of inhabitants to form a court, shall be tried in the next adjacent county where a court is held.

ART. XL. All causes, of what nature soever, shall be tried in the supreme court, except as hereafter mentioned; which court shall consist of the chief-justice, and three or more of the justices residing in the county. In case of the absence of the chief-justice, the senior justice on the bench shall act as chief-justice, with the clerk of the county, attorney for the State, sheriff, coroner, constable, and the jurors; and in case of the absence of any of the aforementioned officers, the justices to appoint others in their room *pro tempore*. And if any plaintiff or defendant in civil causes shall be dissatisfied with the determination of the jury, then, and in that case, they shall be at liberty, within three days, to enter an appeal from that verdict, and demand a new trial by a special jury, to be nominated as follows, viz: each party, plaintiff and defendant, shall choose six, six more names shall be taken indifferently out of a box provided for that purpose, the whole eighteen to be summoned, and their names to be put together into the box, and the first twelve that are drawn out, being present, shall be the special jury to try the cause, and from which there shall be no appeal.

ART. XLI. The jury shall be judges of law, as well as of fact, and shall not be allowed to bring in a special verdict; but if all or any of the jury have any doubts concerning points of law, they shall apply to the bench, who shall each of them in rotation give their opinion.

ART. XLII. The jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to the rules and regulations contained in this constitution.

ART. XLIII. The special jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to justice, equity, and conscience, and the rules and regulations contained in this constitution, of which they shall judge.

ART. XLIV. Captures, both by sea and land, to be tried in the county where such shall be carried in; a special court to be called by the chief-justice, or in his absence by the then senior justice in

the said county, upon application of the captors or claimants, which cause shall be determined within the space of ten days. The mode of proceeding and appeal shall be the same as in the superior courts, unless, after the second trial, an appeal is made to the Continental Congress; and the distance of time between the first and second trial shall not exceed fourteen days; and all maritime causes to be tried in like manner.

ART. XLV. No grand jury shall consist of less than eighteen, and twelve may find a bill.

ART. XLVI. That the court of conscience be continued as heretofore practiced, and that the jurisdiction thereof be extended to try causes not amounting to more than ten pounds.

ART. XLVII. All executions exceeding five pounds, except in the case of a court-merchant, shall be stayed until the first Monday in March; provided security be given for debt and costs.

ART. XLVIII. All the costs attending any action in the superior court shall not exceed the sum of three pounds, and that no cause be allowed to depend in the superior court longer than two terms.

ART. XLIX. Every officer of the State shall be liable to be called to account by the house of assembly.

ART. L. Every county shall keep the public records belonging to the same, and authenticated copies of the several records now in the possession of this State shall be made out and deposited in that county to which they belong.

ART. LI. Estates shall not be entailed; and when a person dies intestate, his or her estate shall be divided equally among their children; the widow shall have a child's share, or her dower, at her option; all other intestates' estates to be divided according to the act of distribution, made in the reign of Charles the Second, unless otherwise altered by any future act of the legislature.

ART. LII. A register of probates shall be appointed by the legislature in every county, for proving wills and granting letters of administration.

ART. LIII. All civil officers in each county shall be annually elected on the day of the general election, except justices of the peace and registers of probates, who shall be appointed by the house of assembly.

ART. LIV. Schools shall be erected in each county, and supported at the general expense of the State, as the legislature shall hereafter point out.

ART. LV. A court-house and jail shall be erected at the public expense in each county, where the present convention or the future legislature shall point out and direct.

ART. LVI. All persons whatever shall have the free exercise of their religion; provided it be not repugnant to the peace and safety of the State; and shall not, unless by consent, support any teacher or teachers except those of their own profession.

ART. LVII. The great seal of this State shall have the following device: on one side a scroll, whereon shall be engraved, "The Constitution of the State of Georgia;" and the motto, "*Pro bono publico.*" On the other side, an elegant house, and other buildings, fields of corn, and meadows covered with sheep and cattle; a river running through the same, with a ship under full sail, and the motto, "*Deus nobis hæc otia fecit.*"

ART. LVIII. No person shall be allowed to plead in the courts of law in this State, except those who are authorized so to do by the house of assembly; and if any person so authorized shall be found guilty of malpractice before the house of assembly, they shall have power to suspend them. This is not intended to exclude any person from that inherent privilege of every *freeman*, the liberty to plead his own cause.

ART. LIX. Excessive fines shall not be levied, nor excessive bail demanded.

ART. LX. The principles of the *habeas-corpus* act shall be a part of this constitution.

ART. LXI. Freedom of the press and trial by jury to remain inviolate forever.

ART. LXII. No clergyman of any denomination shall be allowed a seat in the legislature.

ART. LXIII. No alteration shall be made in this constitution without petitions from a majority of the counties, and the petitions from each county to be signed by a majority of voters in each county within this State; at which time the assembly shall order a convention to be called for that purpose, specifying the alterations to be made, according to the petitions preferred to the assembly by the majority of the counties as aforesaid.

Done at Savannah, in convention, the fifth day of February, in the year of our Lord one thousand seven hundred and seventy-seven, and in the first year of the Independence of the United States of America.

CONSTITUTION OF GEORGIA—1789 [a] [b]

We, the underwritten delegates from the people, in convention met, do declare that the following articles shall form the constitution for the government of this State; and, by virtue of the powers in us vested for that purpose, do hereby ratify and confirm the same.

ARTICLE I

SECTION 1. The legislative power shall be vested in two separate and distinct branches, to wit, a senate and house of representatives, to be styled "The general assembly."

SEC. 2. The senate shall be elected on the first Monday in October in every third year, until such day of election be altered by law; and shall be composed of one member from each county, chosen by the electors thereof, and shall continue for the term of three years.

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[a] This Constitution was framed by a convention which assembled at Augusta November 4, 1788, and adjourned November 24, 1788. The Constitution was submitted to a Convention called for the purpose of ratifying or rejecting it, which met January 4, 1789. It proposed amendments, which were submitted to a convention which met May 4, 1789, and adjourned May 6, 1789. This Convention framed amendments but did not submit them to the people.

[b] Verified by "The Constitution of Georgia of 1789," printed in "Digest of Laws of the State of Georgia, * * * by Robert and George Watkins, Philadelphia. Printed by R. Aitkin, 1800." pp. 25–31.

Sec. 3. No person shall be a member of the senate who shall not have attained to the age of twenty-eight years, and who shall not have been nine years an inhabitant of the United States, and three years a citizen of this State; and shall be an inhabitant of that county for which he shall be elected, and have resided therein six months immediately preceding his election, and shall be possessed in his own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

Sec. 4. The senate shall elect, by ballot, a president out of their own body.

Sec. 5. The senate shall have solely the power to try all impeachments.

Sec. 6. The election of members for the house of representatives shall be annual, on the first Monday in October, until such day of election be altered by law, and shall be composed of members from each county, in the following proportions: Camden, two; Glynn, two; Liberty, four; Chatham, five; Effingham, two; Burke, four; Richmond, four; Wilkes, five; Washington, two; Green, two; and Franklin, two.

Sec. 7. No person shall be a member of the house of representatives who shall not have attained to the age of twenty-one years, and have been seven years a citizen of the United States, and two years an inhabitant of this State; and shall be an inhabitant of that county for which he shall be elected, and have resided therein three months immediately preceding his election; and shall be possessed in his own right of two hundred acres of land, or other property to the amount of one hundred and fifty pounds.

Sec. 8. The house of representatives shall choose their speaker and other officers.

Sec. 9. They shall have solely the power to impeach all persons who have been or may be in office.

Sec. 10. No person holding a military commission, or office of profit, under this or the United States, or either of them, (except justices of the peace and officers of the militia,) shall be allowed to take his seat as a member of either branch of the general assembly; nor shall any senator or representative be elected to any office of profit which shall be created during his appointment.

Sec. 11. The meeting of the general assembly shall be annual, on the first Monday in November, until such day of meeting be altered by law.

Sec. 12. One-third of the members of each branch shall have power to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house may prescribe.

Sec. 13. Each house shall be judges of the elections, returns, and qualifications of its own members, with powers to expel or punish for disorderly behavior.

Sec. 14. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for a reasonable time in going thereto or returning home, except it be for treason, felony, or breach of the peace; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

Sec. 15. The members of the senate and house of representatives shall take the following oath or affirmation: "I, A B, do solemnly swear (or affirm, as the case may be) that I have not obtained my election by bribery, or other unlawful means; and that I will give my vote on all questions that may come before me, as a senator, (or representative,) in such manner as, in my judgment, will best promote the good of this State; and that I will bear true faith and allegiance to the same, and to the utmost of my power observe, support, and defend the constitution thereof."

Sec. 16. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

Sec. 17. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off, as out of the other territory belonging to the State. When a new county or counties shall be laid off, out of any of the present county or counties, such new county or counties shall have their representation apportioned out of the number of the representatives of the county or counties out of which it or they shall be laid out; and when any new county shall be laid off in the vacant territory belonging to the State, such county shall have a number of representatives, not exceeding three, to be regulated and determined by the general assembly. And no money shall be drawn out of the treasury, or from the public funds of this State, except by appropriations made by law.

Sec. 18. No clergyman of any denomination shall be a member of the general assembly.

Article II

Section 1. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and shall be elected in the following manner:

Sec. 2. The house of representatives shall, on the second day of their making a house, in the first, and in every second year thereafter, vote by ballot for three persons; and shall make a list containing the names of the persons voted for, and of the number of votes for each person; which list the speaker shall sign in the presence of the house, and deliver it in person to the senate; and the senate shall, on the same day, proceed, by ballot, to elect one of the three persons having the highest number of votes; and the person having a majority of the votes of the senators present shall be the governor.

Sec. 3. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other species of property to the amount of one thousand pounds sterling.

Sec. 4. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of government until such disability be removed, or until the next meeting of the general assembly.

Sec. 5. The governor shall, at stated times, receive for his service a compensation which shall neither be increased nor diminished dur-

ing the period for which he shall be elected; neither shall he receive, within that period, any other emolument from the United States, or any of them, or from any foreign power. Before he enters on the execution of his office he shall take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia, and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws of the same."

Sec. 6. He shall be commander-in-chief in and over the State of Georgia, and of the militia thereof.

Sec. 7. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make a report thereof to the next general assembly, by whom a pardon may be granted.

Sec. 8. He shall issue writs of election to fill up all vacancies that happen in the senate or house of representatives, and shall have power to convene the general assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

Sec. 9. In case of a disagreement between the senate and house of representatives, with respect to the time to which the general assembly shall adjourn, he may adjourn them to such time as he may think proper.

Sec. 10. He shall have the revision of all bills passed by both houses, before the same shall become laws: but two-thirds of both houses may pass a law, notwithstanding his dissent, and, if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

Sec. 11. The great seal of the State shall be deposited in the office of the secretary, and it shall not be affixed to any instrument of writing without it be by order of the governor or general assembly; and the general assembly may direct the great seal to be altered.

Article III

Section 1. A superior court shall be held in each county twice in every year; in which shall be tried, and brought to final decision, all causes, civil and criminal, except such as may be subject to a Federal court, and such as may, by law, be referred to inferior jurisdiction.

Sec. 2. The general assembly shall point out the mode of correcting errors and appeals, which shall extend so far as to empower the judges to direct a new trial by jury within the county where the action originated, and which shall be final.

Sec. 3. Courts-merchant shall be held as heretofore, subject to such regulations as the general assembly may by law direct.

Sec. 4. All causes shall be tried in the county where the defendant resides except in cases of real estate, which shall be tried in the county where such estate lies, and in criminal cases, which shall be tried in the county where the crime shall be committed.

SEC. 5. The judges of the superior court and attorney-general shall have a competent salary established by law, which shall not be increased nor diminished during their continuance in office, and shall hold their commission during the term of three years.

ARTICLE IV

SECTION 1. The electors of the members of both branches of the general assembly shall be citizens and inhabitants of this State, and shall have attained to the age of twenty-one years, and have paid tax for the year preceding the election, and shall have resided six months within the county.

SEC. 2. All elections shall be by ballot, and the house of representatives, in all appointments of State officers, shall vote for three persons; and a list of the three persons having the highest number of votes shall be signed by the speaker, and sent to the senate, which shall from such list determine, by a majority of their votes, the officer elected, except militia officers and the secretaries of the governor, who shall be appointed by the governor alone, under such regulations and restrictions as the general assembly may prescribe. The general assembly may vest the appointment of inferior officers in the governor, the courts of justice, or in such other manner as they may by law establish.

SEC. 3. Freedom of the press and trial by jury shall remain inviolate.

SEC. 4. All persons shall be entitled to the benefit of the writ of *habeas corpus*.

SEC. 5. All persons shall have the free exercise of religion, without being obliged to contribute to the support of any religious profession but their own.

SEC. 6. Estates shall not be entailed; and when a person dies intestate, leaving a wife and children, the wife shall have a child's share, or her dower, at her option; if there be no wife, the estate shall be equally divided among the children and their legal representatives of the first degree. The distribution of all other intestate estates may be regulated by law.

SEC. 7. At the general election for members of assembly, in the year one thousand seven hundred and ninety-four, the electors in each county shall elect three persons to represent them in a convention, for the purpose of taking into consideration the alterations necessary to be made in this constitution, who shall meet at such time and place as the general assembly may appoint; and if two-thirds of the whole number shall meet and concur, they shall proceed to agree on such alterations and amendments as they may think proper: *Provided*, That after two-thirds shall have concurred to proceed to alterations and amendments, a majority shall determine on the particulars of such alterations and amendments.

SEC. 8. This constitution shall take effect, and be in full force, on the first Monday in October next, after the adoption of the same; and the executive shall be authorized to alter the time for the sitting of the superior courts, so that the same may not interfere with the annual elections in the respective counties, or the meeting of the first general assembly.

Done at Augusta, in convention, the sixth day of May, in the year of our Lord one thousand seven hundred and eighty-nine and in the year of the Sovereignty and Independence of the United States the thirteenth.

WM. GIBBONS, *President.*

D. LONGSTREET, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1789[a]

(Adopted May 16, 1795)

ARTICLE I. The senate shall be elected annually on the first Monday in November until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

ART. II. All elections to be made by the general assembly, shall be by joint ballot of the senate and house of representatives.

ART. III. The election of members for the house of representatives shall be annual on the first Monday in November; and shall be composed of members from each county in the following proportions: Camden, two; Glynn, two; Liberty, four; McIntosh, two; Bryan, two; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Richmond, two; Columbia, two; Wilkes, three; Elbert, two; Franklin, two; Oglethorpe, three; Green, three; Hancock, three; Washington, three; Warren, three.

ART. IV. At the general election for members of assembly in the year 1797, the electors of the present counties shall elect three persons to represent them in a convention for the purpose of taking into consideration the further alterations and amendments necessary to be made in the constitution, who shall meet at the town of Louisville the second Tuesday in May thereafter; a majority of the said convention shall have power to proceed to, and agree on, such alterations and amendments as they may think proper.

ART. V. The meeting of the general assembly shall be annual on the second Tuesday in January; a majority of whom shall have power to proceed to business.

ART. VI. That Louisville be the permanent seat of government; and that the governor, secretary of the State, the treasurer, the auditor, and the surveyor-general, remove their offices thereto, as soon as may be convenient, previously to the next meeting of the general assembly.

ART. VII. Article of constituted rights annexed to the constitution as amended.

ART. VIII. All powers not delegated by the constitution as amended, are retained by the people.

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[a] These amendments were framed by a convention which met at Louisville in the spring of 1795 and completed its labors May 16, 1795. The amendments were not submitted to the people, but took effect on the first Monday of the following October.

CONSTITUTION OF GEORGIA—1798 * [a]

The constitution of the State of Georgia, as revised, amended, and compiled by the convention of the State, at Louisville, on the 30th day of May, 1798

Article I

Section 1. The legislative, executive, and judiciary departments of government shall be distinct, and each department shall be confided to a separate body of magistracy; and no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Sec. 2. The legislative power shall be vested in two separate and distinct branches, to wit: A senate and house of representatives, to be styled "The general assembly."

Sec. 3. The senate shall be elected annually, on the first Monday in November, until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

Sec. 4. No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State, and shall have usually resided within the county for which he shall be returned, at least one year immediately preceding his election, (except persons who may have been absent on public business of this State or of the United States,) and is and shall have been possessed, in his own right, of a settled freehold estate of the value of five hundred dollars, or taxable property to the amount of one thousand dollars, within the county, for one year preceding his election, and whose estate shall, on a reasonable estimation, be fully competent to the discharge of his just debts over and above that sum.

Sec. 5. The senate shall elect, by ballot, a president of their own body.

Sec. 6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment, and punishment according to law.

Sec. 7. The house of representatives shall be composed of members from all the counties which now are, or hereafter may be, included within this State, according to their respective numbers of free white persons, and including three-fifths of all the people of color. The actual enumeration shall be made within two years, and within every

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* Verified by "Watkins' Digest of the Laws of Georgia, Philadelphia, 1800," pp. 31–43.

[a] This constitution was framed by a convention which met at Louisville May 8, 1798. It was signed May 30, 1798, and went into effect on the first Monday of October of that year, without having been submitted to the people.

subsequent term of seven years thereafter, at such time and in such manner as this convention may direct. Each county containing three thousand persons, agreeably to the foregoing plan of enumeration, shall be entitled to two members; seven thousand, to three members; and twelve thousand, to four members; but each county shall have at least one and not more than four members. The representatives shall be chosen annually, on the first Monday in November, until such day of election be altered by law. Until the aforesaid enumeration shall be made, the several counties shall be entitled to the following number of representatives, respectively: Camden, two; Glynn, two; Liberty, three; M'Intosh, two; Bryan, one; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Bullock, one; Jefferson, three; Lincoln, two; Elbert, three; Jackson, two; Richmond, three, Wilkes, four; Columbia, three; Warren, three; Washington, three; Hancock, four; Greene, three; Oglethorpe, three; and Franklin, two.

Sec. 8. No person shall be a representative who shall not have attained to the age of twenty-one years, and have been seven years a citizen of the United States, three years an inhabitant of this State, and have usually resided in the county in which he shall be chosen one year immediately preceding his election, (unless he shall have been absent on public business of this State or of the United States,) and shall be possessed in his own right of a settled freehold estate of the value of two hundred and fifty dollars, or of taxable property to the amount of five hundred dollars within the county, for one year preceding his election, and whose estate shall, on a reasonable estimation, be competent to the discharge of his just debts, over and above that sum.

Sec. 9. The house of representatives shall choose their speaker and other officers.

Sec. 10. They shall have solely the power to impeach all persons who have been or may be in office.

Sec. 11. No person holding any military commission or other appointment, having any emolument annexed thereto, under this State or the United States, or either of them, except justices of the inferior court, justices of the peace, and officers of the militia, nor any person who has had charge of public moneys belonging to the State, unaccounted for and unpaid, or who has not paid all legal taxes or contributions to the government required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative be elected to any office or appointment by the legislature, having any emoluments or compensation annexed thereto, during the time for which he shall have been elected, with the above exception, unless he shall decline accepting his seat, by notice to the executive within twenty days after he shall have been elected; nor shall any member, after having taken his seat, be eligible to any of the aforesaid offices or appointments during the time for which he shall have been elected.

Sec. 12. The meeting of the general assembly shall be annually, on the second Tuesday in January, until such day of meeting be altered by law; a majority of each branch shall be authorized to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house may prescribe.

Sec. 13. Each house shall be the judges of the elections, returns, and qualifications of its own members; with powers to expel or punish, by censuring, fining, and imprisoning, or either, for disorderly behavior; and may expel any person convicted of any felonious or infamous offence; each house may punish by imprisonment, during session, any person, not a member, who shall be guilty of disrespect by any disorderly or contemptuous behavior in its presence, or who, during session, shall threaten harm to the body or estate of any member, for anything said or done in either house, or who shall assault or arrest any witness in going to or returning therefrom, or who shall rescue any person arrested by order of either house.

Sec. 14. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for ten days previous to its sitting, or for ten days after the rising thereof, except for treason, felony, or breach of the peace; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere; but shall nevertheless be bound to answer for perjury, bribery, or corruption.

Sec. 15. Each house shall keep a journal of its proceedings, and publish them immediately after their adjournment; and the yeas and nays of the members on any question shall, at the desire of any two members, be entered on the journals.

Sec. 16. All bills for raising revenue or appropriating moneys shall originate in the house of representatives, but the senate shall propose or concur with amendments, as in other bills.

Sec. 17. Every bill shall be read three times and on three separate days, in each branch of the general assembly, before it shall pass, unless in cases of actual invasion or insurrection; nor shall any law or ordinance pass, containing any matter different from what is expressed in the title thereof; and all acts shall be signed by the president in the senate, and speaker in the house of representatives. No bill or ordinance which shall have been rejected by either house shall be brought in again during the session, under the same or any other title, without the consent of two-thirds of each branch.

Sec. 18. Each senator and representative, before he be permitted to take his seat, shall take an oath, or make affirmation, that he hath not practised any unlawful means, either directly or indirectly, to procure his election; and every person shall be disqualified from serving as a senator or representative, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat, or canvassed for such election; and every candidate employing like means, and not elected, shall, on conviction, be ineligible to hold a seat in either house, or to hold any office of honor or profit for the term of one year, and to such other disabilities or penalties as may be prescribed by law.

Sec. 19. Every member of the senate or house of representatives shall, before he takes his seat, take the following oath or affirmation, to wit: "I, A B, do solemnly swear (or affirm, as the case may be) that I have not obtained my election by bribery, treats, canvassing, or other undue or unlawful means, used by myself, or others by my desire or approbation, for that purpose; that I consider myself constitutionally qualified as a senator, (or representative,) and that, on all questions and measures which may come before me, I will give my vote and so conduct myself as may, in my judgment, appear most

conductive to the interest and prosperity of this State; and that I will bear true faith and allegiance to the same; and to the utmost of my power and ability observe, conform to, support, and defend the constitution thereof."

SEC. 20. No person who hath been or may be convicted of felony before any court of this State, or any of the United States, shall be eligible to any office or appointment of honor, profit, or trust within this State.

SEC. 21. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that at which the two branches shall be sitting; and in case of disagreement between the senate and house of representatives, with respect to their adjournment, the governor may adjourn them.

SEC. 22. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

SEC. 23. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off as out of the other territory belonging to the State; but the property of the soil, in a free government, being one of the essential rights of a free people, it is necessary, in order to avoid disputes, that the limits of this State should be ascertained with precision and exactness; and this convention, composed of the immediate representatives of the people, chosen by them to assert their rights, to revise the powers given by them to the government, and from whose will all ruling authority of right flows, doth assert and declare the boundaries of this State shall be as follows, that is to say: The limits, boundaries, jurisdictions, and authority of the State of Georgia do, and did, and of right ought to, extend from the sea or mouth of the river Savannah, along the northern branch or stream thereof, to the fork or confluence of the rivers now called Tugalo and Keowee, and from thence along the most northern branch or stream of the said river Tugalo, till it intersect the northern boundary-line of South Carolina, if the said branch or stream of Tugalo extends so far north, reserving all the islands in the said rivers Savannah and Tugalo to Georgia; but, if the head spring or source of any branch or stream of the said river Tugalo does not extend to the north boundary-line of South Carolina, then a west line to the Mississippi, to be drawn from the head spring or source of the said branch or stream of Tugalo River, which extends to the highest northern latitude; thence, down the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south, by a line drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola, or Chatahoochee; thence, along the middle thereof, to its junction with Flint River; thence straight to the head of Saint Mary's River; and thence, along the middle of Saint Mary's River, to the Atlantic Ocean, and from thence to the mouth or inlet of Savannah River, the place of beginning; including and comprehending all the lands and waters within the said limits, boundaries, and jurisdictional rights; and also all the islands within twenty leagues of the sea-coast. And this convention

doth further declare and assert that all the territory without the present temporary line, and within the limits aforesaid, is now, of right, the property of the free citizens of this State, and held by them in sovereignty, inalienable but by their consent: *Provided, nevertheless,* That nothing herein contained shall be construed so as to prevent a sale to, or contract with, the United States, by the legislature of this State, of and for all or any part of the western territory of this State lying westward of the river Chatahoochee, on such terms as may be beneficial to both parties; and may procure an extension of settlement and extinguishment of Indian claims in and to the vacant territory of this State to the east and north of the said river Chatahoochee, to which territory such power of contract or sale, by the legislature, shall not extend: *And provided also,* The legislature may give its consent to the establishment of one or more governments westward thereof; but monopolies of land by individuals being contrary to the spirit of our free government, no sale of territory of this State, or any part thereof, shall take place to individuals or private companies, unless a county or counties shall have been first laid off, including such territory, and the Indian rights shall have been extinguished thereto.

Sec. 24. The foregoing section of this article having declared the common rights of the free citizens of this State in and to all the territory without the present temporary boundary-line, and within the limits of this State thereby defined, by which the contemplated purchases of certain companies of a considerable portion thereof are become constitutionally void, and justice and good faith require that the State should not detain a consideration for a contract which has failed, the legislature, at their next session, shall make provision by law for returning to any person or persons who has or have *bona fide* deposited moneys for such purposes in the treasury of this State: *Provided,* That the same shall not have been drawn therefrom in terms of the act passed the thirteenth day of February, one thousand seven hundred and ninety-six, commonly called the rescinding act, or the appropriation laws of the years one thousand seven hundred and ninety-six and one thousand seven hundred and ninety-seven; nor shall the moneys paid for such purchases ever be deemed a part of the funds of this State, or be liable to appropriation as such; but until such moneys be drawn from the treasury, they shall be considered altogether at the risk of the persons who have deposited the same. No money shall be drawn out of the treasury or from the public funds of this State, except by appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time. No vote, resolution, law, or order shall pass the general assembly granting a donation or gratuity in favor of any person whatever but by the concurrence of two-thirds of the general assembly.

Sec. 25. It shall be the duty of the justices of the inferior court, or any three of them, in each county respectively, within sixty days after the adjournment of this convention, to appoint one or more fit persons in each county, not exceeding one for each battalion district, whose duty it shall be to take a full and accurate census or enumeration of all free white persons and people of color residing therein, distinguishing, in separate columns, the free white persons from persons of color, and return the same to the clerks of the superior courts

of the several counties, certified under their hands, on or before the first day of December next; the person so appointed being first severally sworn before the said justices, or either of them, duly and faithfully to perform the trust reposed in them; and it shall be the duty of the said clerks to transmit all such returns, under seal, directed to the speaker of the house of representatives, at the first session of the legislature thereafter. And it shall be the duty of the general assembly, at their said first session, to apportion the members of the house of representatives among the several counties, agreeably to the plans prescribed by this constitution, and to provide an adequate compensation abode shall be in any family on the first Monday in July next shall be returned as of such family; and every person occasionally absent at the time of taking the enumeration, as belonging to that place in which he usually resides. The general assembly shall, by law, direct the manner of taking such census or enumeration, within every subsequent term of seven years, in conformity to this constitution. And it is declared to be the duty of all officers, civil and military, throughout the State, to be aiding and assisting in the true and faithful execution thereof. In case the justices of the inferior courts should fail to make such appointments, or if there should not be a sufficient number of such justices in any county, then the justices of the peace, or any three of them, shall have and exercise like powers and authority respecting the said census; and if the census or enumeration of any county shall not be so taken and returned, then, and in that case, the general assembly shall apportion the representation of such county according to the best evidence in their power, relative to its population.

Sec. 26. The Legislature shall have no power to change names, nor to Legitimate persons, nor to make or change Precincts, nor to establish Bridges or Ferries, but shall, by law, prescribe the manner in which said powers shall be exercised by the Superior or Inferior courts, and the privileges to be enjoyed.

Article II

Section 1. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; neither shall he receive, within that period, any other emolument from the United States, or either of them, or from any foreign power.

Sec. 2. The governor shall be elected by the general assembly, at their second annual session after the rising of this convention, and at every second annual session thereafter, on the second day after the two houses shall be organized and competent to proceed to business.

Sec. 3. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other property to the

amount of four thousand dollars, and whose estate shall not, on a reasonable estimation, be competent to the discharge of his debts, over and above that sum.

SEC. 4. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of government until such disability be removed, or until the next meeting of the general assembly.

SEC. 5. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws thereof."

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 7. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons or to remit any part of a sentence, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make report thereof to the next general assembly, by whom a pardon may be granted.

SEC. 8. He shall issue writs of election to fill up all vacancies that happen in the senate or house of representatives; and shall have power to convene the general assembly on extraordinary occasions; and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. When any office shall become vacant by death, resignation, or otherwise, the governor shall have the power to fill such vacancy; and persons so appointed shall continue in office until a successor is appointed, agreeable to the mode pointed out by this constitution or by the legislature.

SEC. 10. He shall have the revision of all bills passed by both houses before the same shall become laws; but two-thirds of both houses may pass a law notwithstanding his dissent; and if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

SEC. 11. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor; and, before it shall take effect, be approved by him; or, being disapproved, may be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 12. There shall be a secretary of the State, a treasurer, and a surveyor-general, appointed in the same manner and at the same session of the legislature, and they shall hold their offices for the like period as the governor, and shall have a competent salary, including such emoluments as may be established by law, which shall not be increased or diminished during the period for which they shall have been elected.

SEC. 13. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor or general assembly; and the general assembly shall, at their first session after the rising of this convention, cause the great seal to be altered by law.

SEC. 14. The governor shall have power to appoint his own secretaries.

ARTICLE III

SECTION 1. The judicial powers of this State shall be vested in a superior court, and in such inferior jurisdictions as the legislature shall, from time to time, ordain and establish. The judges of the superior court shall be elected for the term of three years, removable by the governor, on the address of two-thirds of both houses for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive and final jurisdiction in all criminal cases which shall be tried in the county wherein the crime was committed, and in all cases respecting titles to land, which shall be tried in the county where the land lies; and shall have power to correct errors in inferior judicatories by writs of *certiorari*, as well as errors in the superior courts, and to order new trials on proper and legal grounds: *Provided*, That such new trials shall be determined, and such errors corrected, in the superior court of the county in which such action originated. And the said court shall also have appellate jurisdiction in such other cases as the legislature may by law direct, which shall in no case tend to remove the cause from the county in which the action originated; and the judges thereof, in all cases of application for new trials, or correction of errors, shall enter their opinions on the minutes of the court. The inferior courts shall have cognizance of all other civil cases, which shall be tried in the county wherein the defendant resides, except in cases of joint obligors, residing in different counties, which may be commenced in either county, and a copy of the petition and process, served on the party or parties residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature may direct; but the legislature may, by law, to which two-thirds of each branch shall concur, give concurrent jurisdiction to the superior courts. The superior and inferior courts shall sit in each county twice in every year, at such stated times as the legislature shall appoint.

SEC. 2. The judges shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

SEC. 3. There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of three years, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services established by law, which shall not be increased or diminished during their continuance in office.

SEC. 4. Justices of the inferior courts shall be appointed by the general assembly, and be commissioned by the governor, and shall

hold their commissions during good behavior, or as long as they respectively reside in the county for which they shall be appointed, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct.

SEC. 5. The justices of the peace shall be nominated by the inferior courts of the several counties, and commissioned by the governor; and there shall be two justices of the peace in each captain's district, either or both of whom shall have power to try all cases of a civil nature within their district, where the debt or litigated demand does not exceed thirty dollars, in such manner as the legislature may by law direct. They shall hold their appointments during good behavior, or until they shall be removed by conviction on indictment in the superior court, for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the legislature.

SEC. 6. The powers of a court of ordinary, or register of probates, shall be invested in the inferior courts of each county, from whose decision there may be an appeal to the superior court, under such restrictions and regulations as the general assembly may by law direct; but the inferior court shall have power to vest the care of the records, and other proceedings therein, in the clerk, or such other person as they may appoint, and any one or more justices of the said court, with such clerk or other person, may issue citations and grant temporary letters, in time of vacation, to hold until the next meeting of the said court; and such clerk or other person may grant marriage-licenses.

SEC. 7. The judges of the superior courts, or any one of them, shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying their powers fully into effect.

SEC. 8. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged under proper heads, and promulgated in such manner as the legislature may direct; and no person shall be debarred from advocating or defending his cause before any court or tribunal, either by himself or counsel, or both.

SEC. 9. Divorces shall not be granted by the legislature until the parties shall have had a fair trial before the superior court, and a verdict shall have been obtained authorizing a divorce upon legal principles. And in such cases two-thirds of each branch of the legislature may pass acts of divorce accordingly.

SEC. 10. The clerks of the superior and inferior courts shall be appointed in such manner as the legislature may by law direct; shall be commissioned by the governor, and shall continue in office during good behavior.

SEC. 11. Sheriffs shall be appointed in such manner as the general assembly may by law direct, and shall hold their appointments for the term of two years, unless sooner removed by sentence on impeachment, or by the governor on the address of two-thirds of the justices of the inferior court and of the peace in the county; but no person shall be twice elected sheriff within any term of four years; and no county officer after the next election shall be chosen at the time of electing a senator or representative.

ARTICLE IV

SECTION 1. The electors of members of the general assembly shall be citizens and inhabitants of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they may have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided six months within the county: *Provided*, That in case of an invasion, and the inhabitants shall be driven from any county, so as to prevent an election therein, such refugee inhabitants, being a majority of the voters of such county, may meet under the direction of any three justices of the peace thereof, in the nearest county not in a state of alarm, and proceed to an election, without having paid such tax so required of electors; and the persons elected thereat shall be entitled to their seats.

SEC. 2. All elections by the general assembly shall be by joint ballot of both branches of the legislature; and when the senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside, receive the ballots, and declare the person or persons elected. In all elections by the people the electors shall vote *viva voce* until the legislature shall otherwise direct.

SEC. 3. The general officers of the militia shall be elected by the general assembly, and shall be commissioned by the governor. All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company to which they belong, unless removed by sentence of a court-martial, or by the governor, on the address of two-thirds of each branch of the general assembly.

SEC. 4. All persons appointed by the legislature to fill vacancies shall continue in office only so long as to complete the time for which their predecessors were appointed.

SEC. 5. Freedom of the press, and trial by jury, as heretofore used in this State, shall remain inviolate; and no *ex post facto* law shall be passed.

SEC. 6. No person who heretofore hath been, or hereafter may be, a collector, or holder of public moneys, shall be eligible to any office in this State until such person shall have acounted for and paid into the treasury all sums for which he may be accountable or liable.

SEC. 7. The person of a debtor, where there is not a strong presumption of fraud, shall not be detained in prison after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law.

SEC. 8. Convictions on impeachments which have heretofore taken place are hereby released, and persons lying under such convictions restored to citizenship.

SEC. 9. The writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

SEC. 10. No person within this State shall, upon any pretence, be

deprived of the inestimable privilege of worshipping God in a manner agreeable to his own conscience, nor be compelled to attend any place of worship contrary to his own faith and judgment; nor shall he ever be obliged to pay tiths, taxes, or any other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or hath voluntarily engaged to do. No one religious society shall ever be established in this State, in preference to another; nor shall any person be denied the enjoyment of any civil right merely on account of his religious principles.

SEC. 11. There shall be no future importation of slaves into this State, from Africa or any foreign place, after the first day of October next. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of each of their respective owners, previous to such emancipation. They shall have no power to prevent emigrants from either of the United States to this State from bringing with them such persons as may be deemed slaves by the laws of any one of the United States.

SEC. 12. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection by such slave, and unless such death should happen by accident in giving such slave moderate correction.

SEC. 13. The arts and sciences shall be promoted, in one or more seminaries of learning; and the legislature shall, as soon as conveniently may be, give such further donations and privileges to those already established as may be necessary to secure the objects of their institution; and it shall be the duty of the general assembly, at their next session, to provide effectual measures for the improvement and permanent security of the funds and endowments of such institutions.

SEC. 14. All civil officers shall continue in the exercise of the duties of their several offices during the periods for which they were appointed, or until they shall be superseded by appointments made in conformity to this constitution; and all laws now in force shall continue to operate, so far as they are compatible with this constitution, until repealed; and it shall be the duty of the general assembly to pass all necessary laws and regulations for carrying this constitution into full effect.

SEC. 15. No part of this constitution shall be altered, unless a bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the house of representatives, and three times in the senate, on three several days in each house, and agreed to by two-thirds of each house respectively; and when any such bill shall be passed in manner aforesaid, the same shall be published at least six months previous to the next ensuing annual election for members of the general assembly; and if such alterations, or any of them, so proposed, shall be agreed to in their first session thereafter, by two-thirds of each branch of the general assembly, after the same shall have been read three times, on three separate days, in each respective house, then, and not otherwise, the same shall become a part of this constitution.

We, the underwritten delegates of the people of the State of Georgia, chosen and authorized by them to revise, alter, or amend the powers and principles of their government, do declare, ordain, and ratify the several articles and sections contained in the six pages hereunto prefixed, as the constitution of this State; and the same shall be in operation from the date hereof.

In testimony whereof we, and each of us, respectively, have hereunto set our hands, at Louisville, the seat of government, this thirtieth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-second year of the Independence of the United States of America; and have caused the great seal of the State to be affixed thereto.

Article 4, section 11, and the first line, the following words being interlined, to wit, "after the first day of October next."

JARED IRWIN, *President.*

JAMES M. SIMMONS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1798.[a]

(Ratified December 16, 1808)

ART. III. SEC. 10. *So altered and amended as to read:* That the clerks of the superior and inferior courts shall be elected on the same day as pointed out by law for the election of other county officers.

(Ratified 1812[b])

ART. III. SEC. 4. *So altered and amended as to read:* The justices of the inferior courts shall be elected on the third Tuesday in October, eighteen hundred and thirteen, and on the third Tuesday in October in every fourth year thereafter, by the electors entitled to vote for members of the general assembly, which election shall be held and conducted in the same manner as pointed out by law for the elections of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, unless removed by impeachment for malpractice in office, or by the governor, on the address of two-thirds of both branches of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct; and there shall be five justices for each county, who shall hold their offices until their successors are elected and qualified; and when any vacancy shall happen by death, resignation, or otherwise, of any justice of the inferior court, it shall be the duty of two or more justices of the inferior court, or justices of the peace, to give at least twenty days' notice by advertisement, at three of the most public places in the county, previous to the election, to fill such vacancy; which election shall be held in the same manner as is by this section before expressed.

ART. III. SEC. 5. *So altered and amended as to read:* There shall be two justices of the peace in each captain's district, in the several counties of this State, either or both of whom shall have power to try

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[a] These amendments were successively passed by the legislature, and adopted by the legislature of the following year, as prescribed by the constitution, without ratification by the people.

[b] Changed by the amendment of 1819.

all cases of a civil nature within their district, where the debt or liquidated demand does not exceed thirty dollars, in such manner as the legislature may by law direct; they shall be elected on the first Saturday in January, eighteen hundred and thirteen, and on the first Saturday in January in every fourth year thereafter, by the citizens of the district to which they respectively belong, entitled to vote for members of the general assembly; which election shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, to wit: "I, A B, do solemnly swear that I will, to the best of my abilities, superintend the election of justices of the peace for this district; so help me God;" and they shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the persons so elected accordingly; and they shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court, for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the legislature. And when any vacancy shall happen by death, resignation, or otherwise, of any justice of the peace, between the time of such election and the expiration of the time for which such justice or justices were elected, it shall be the duty of two of the justices of the peace, in any of the adjoining districts, where such vacancy or vacancies may happen, to advertise in three of the most public places in the district, where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place where such election shall be held, which shall be in the district where such vacancy or vacancies shall have happened; and it shall be the duty of the said justices to superintend such election, and certify the same, under their hands, to his excellency the governor, who shall, within ten days after receiving the same, commission the person having the highest number of votes, provided the same is not contested.

(Ratified December 15, 1818)

ART. II. SEC. 4. *So amended and altered as to read:* In case of the death, resignation, or disability of the governor, the president of the senate, or the last acting president of the senate, shall exercise the executive powers of the government until such disability be removed, in the election and qualification of a governor by the general assembly; and in case of the death, resignation, or disability of the president of the senate, or of the last acting president of the senate, the speaker of the house of representatives, or the acting speaker of the house of representatives, shall exercise the executive powers of the government, until such disability be removed in the election and qualification of a governor by the general assembly.

(Ratified December 18, 1818 [a])

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a superior, inferior, and jus-

[a] Changed by the amendment of 1835.

tices' courts, and such other courts as the legislature shall from time to time ordain and establish. The judges of the superior courts shall be elected for the term of three years, and shall continue in office until their successors shall be elected and qualified: removable by the governor, on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior courts shall have exclusive and final jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty, and for contempt of court, for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences, committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted, in any incorporated city, being a sea-port town and port of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct:) which shall be tried in the county where the crime was committed; and in all cases respecting titles to lands, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases; and shall have power to correct errors in inferior judicatories by writ of *certiorari*, as well as errors in the superior courts; and order new trials on proper and legal grounds: *Provided*, That such new trials shall be determined, and such errors corrected, in the superior court of the county in which such action originated; and the said court shall have appellate jurisdiction in such other cases as are or may be pointed out by law, which shall in no case tend to move the cause from the county in which the action originated; and the judges thereof, in all cases of application for new trials or correction of errors, shall enter their opinion on the minutes of the court. The inferior courts shall also have concurrent jurisdiction in all civil cases, (except in cases respecting the titles to lands,) which shall be tried in the county where the defendant resides; and in case of joint obligors and joint promissors, residing in different counties, the same may be brought in either county, and a copy of the petition and process served on the party residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature have or may direct. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

(Ratified November 23, 1819 [a])

ART. III. SEC. 4. *So altered and amended as to read:* The justices of the inferior court shall be elected by the persons entitled to vote for members of the legislature, in such manner as the legislature may by law direct.

ART. III. SEC. 5. *So altered and amended as to read:* The justices of the peace throughout this State shall be elected by the persons

[a] This amendment was adopted in the place of a previous amendment of the same sections, in 1812.

residing in their respective districts, entitled to vote for members of the general assembly, under such rules and regulations as the legislature may by law direct.

(Ratified November 17, 1824)

ART. II. SEC. 2. *So altered and amended as to read:* The governor shall be elected by the persons qualified to vote for members of the general assembly, on the first Monday in October, in the year of our Lord one thousand eight hundred and twenty-five; and on the first Monday in October in every second year thereafter, until such time be altered by law; which election shall be held at the place of holding general elections, in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the presiding justices, separately from other returns, and directed to the president of the senate and the speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized, and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate, and the speaker of the house of representatives, shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State. But if no person have such majority, then from the persons having the two highest number of votes who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall elect immediately a governor by joint ballot; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

(Ratified 1833)

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon legal principles.

(Ratified December, 1835)

ARTICLE I. SEC. 4. *So altered and amended as to read:* No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State, and shall have usually resided within the county for which he shall be returned at least one year immediately preceding his election, except persons who may have been absent on lawful business of this State or of the United States.

ARTICLE I. SEC. 8. *So altered and amended as to read:* No person shall be a representative who shall not have attained to the age of twenty-one years, and have been a citizen of the United States seven years, and three years an inhabitant of this State, and have usually resided in the county in which he shall be chosen one year immediately preceding his election, unless he shall have been on the public business of this State or of the United States.

(Ratified 1835 [a])

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a supreme court for the correction of errors; a superior, inferior, and justices' courts, and in such other courts as the legislature shall, from time to time, ordain and establish. The supreme court shall consist of three judges, who shall be elected by the legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and shall sit at least once a year, at a time to be prescribed by law, in each of five judicial districts, to be hereafter laid off and designated by the legislature for that purpose, at the most central point in such judicial district, or at such other point in each district as shall by the general assembly be ordained, for the trial and determination of writs of error from the several superior courts included in such judicial districts. And the said court shall at each session in each district dispose of and finally determine each and every case on the docket of such court at the first term after such writ of error brought; and in case the plaintiff in error in any such case shall not be prepared, at such first term of such court, after error brought to prosecute the same, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket, and the judgment below shall stand affirmed. The judges of the superior court shall be elected for the term of four years, and shall continue in office until their successors shall be elected and qualified, removably by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction theron. The superior court shall have exclusive jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty and for contempt of court; for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted, in any incorporated city, being a sea-port town and a port of

[a] This amendment was adopted in the place of a previous amendment of the same section in 1818.

entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct,) which shall be tried in the county where the crime was committed; and in all cases respecting titles to land, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases, and shall have power to correct errors in inferior judicatories, by writ of *certiorari*, and to grant new trials in said superior courts on proper and legal grounds; and in all cases where a new trial shall be so allowed, the judge allowing the same shall enter on the minutes of said court his reasons for the same; and the said superior courts shall have appellate jurisdiction in such other cases as may be pointed out by law, in cases arising in inferior judicatories, which shall in no case tend to remove the cause from the county in which the action originated.

(Ratified 1840 [a])

Article I. Whereas a part of the third section of the first article of the constitution is in the following words, viz: "The senate shall be elected annually;" and a part of the seventh section of the first article is in the following words: "The representatives shall be chosen annually;" and a part of the twelfth section of the first article is in the following words: "The meeting of the general assembly shall be annually;" and whereas a part of the third section of the third article is in the following words: "There shall be a State's attorney and solicitor appointed by the legislature and commissioned by the governor, who shall hold their offices for the term of three years;" and a part of the fifteenth section of the fourth article is in the following words: "The same shall be published at least six months previous to the next ensuing annual election for members of the general assembly;" and whereas the before-recited clauses require amendments:

Section 1. *Be it enacted by the senate and house of representatives of the State of Georgia, in general assembly met, and it is hereby enacted by the authority of the same*, That so soon as this act shall have passed, agreeably to the requisitions of the constitution, the following shall be adopted in lieu of the foregoing clauses: In the third section of the first article, the following, to wit: "The senate shall be elected biennially, after the passage of this act, the first election to take place on the first Monday in 1843." In lieu of the seventh section of the first article, the following: "The representatives shall be elected biennially, after the passing of this act, the first election to take place the first Monday in October, eighteen hundred and forty-three;" and in lieu of the clause in the twelfth section in the first article, the following: "The meeting of the general assembly shall be biennially, after the passage of this act, on the first Monday in November;" and in lieu of the clause in the third section of the third article, the following, to wit: "There shall be a State attorney and solicitor elected by the legislature, who shall hold their offices for the term of four years;" and in lieu of the clause in the fifteenth section of the fourth article, the following: "The same shall be published at least six months previous to the next ensuing biennial election for

[a] See "Journal of the Convention to Reduce and Equalize the Representation of the General Assembly of the State of Georgia, Assembled in Milledgeville, on the 6th Day of May, Eighteen hundred and thirty-nine." Published by Authority, Milledgeville: P. L. Robinson, State Printer, 1839. pp. 74.

members of the general assembly; " the provisions of this act not to go into effect until the year eighteen hundred and forty-three.

(Ratified 1841)

ART. III. SEC. 3. *So altered and amended as to read:* There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be elected and qualified, unless removed by sentence on impeachment, or by the governor, on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office.

ART. IV. SEC. 15. *Amended by striking out the word* " annual."

(Ratified 1843)

ARTICLE I. SEC. 3. *So altered and amended as to read:* The senate shall be elected biennially on the first Monday in October, and shall consist of forty-seven members, and shall be composed of one member from each senatorial district, which district shall be composed of two contiguous counties, not including the county with the largest representative population, which shall constitute a separate district; which districts shall be arranged and organized by the general assembly, at the session when this shall be adopted, and if any new county shall be hereafter formed, it shall be annexed to one of the districts from which it was taken.

ARTICLE I. SEC. 7. *So altered and amended as to read:* The house of representatives shall be composed of one hundred and thirty members; each county shall have one representative, and no county shall have more than two representatives; thirty-seven counties having the greatest population, counting all free white persons, and three-fifths of the people of color, shall have two representatives; the said apportionment shall be made by the general assembly, at the session at which this section shall be adopted as an alteration of the constitution, by an act to be introduced after the adoption thereof, and a new apportionment shall be made at the session next after each future enumeration of the inhabitants of this State, made under the constitution and laws thereof, but at no other time.

ART. III. SECTION 1. *Added to the concluding portion of the section, so that it reads:* And in case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides, and a copy of the petition and process served on the indorser or indorsers residing out of the county in which the suit may be commenced shall be deemed sufficient service, under the same rules and regulations as the legislature have or may direct in the case of joint obligors and joint promisors. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

ART. IV. SEC. 3. *So altered and amended as to read:* It shall and may be lawful for all major-generals and brigadier-generals to be

elected by the people of the respective divisions and brigades; and all persons subject to military duty shall be entitled to vote for the same only, and shall be commissioned by the governor. All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company to which they belong, unless removed by sentence of a court-martial, or by the governor on the address of two-thirds of each branch of the general assembly.

(Ratified 1847)

ART. II. SEC. 3. *So altered and amended as to read:* No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years.

(Ratified 1849 [a])

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon such legal principles as the general assembly may by law prescribe.

CONSTITUTION OF GEORGIA—1861

[A State convention, called by an act of the legislature, passed an ordinance of secession January 19, 1861, and on March 23, 1861, completed a revision of the State constitution, which was ratified by the people on the first Tuesday of the following July.]

CONSTITUTION OF GEORGIA—1865 *,[b]

PREAMBLE

We, the people of the State of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessing of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of

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* See "Journal of the Proceedings of the Convention of the People of Georgia, Held in Milledgeville in October and November, 1865, Together with the Ordinances and Resolutions adopted, Published by Order of the Convention, Milledgeville, Ga.; R. M. Orme & Son, Printers for the Convention, 1865." pp. 207–226.

[a] See Journal of the State Convention, Held in Milledgeville, in December, 1850. Milledgeville: R. M. Orme, State Printer, 1850. p. 34.

[b] A convention, called by Provisional Governor James Johnson, met October 25, 1865, repealed the ordinance of secession October 30, and submitted this constitution to the people November 7, 1865. It was ratified, receiving 17,609 votes.

all good government, do ordain and establish this constitution for the State of Georgia:

Article I

declaration of rights

One. Protection to person and property is the duty of government.

Two. No person shall be deprived of life, liberty, or property, except by due process of law.

Three. The writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety may require it.

Four. A well-regulated militia, beig necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Five. Perfect freedom of religious sentiment be, and the same is hereby, secured, and no inhabitant of this State shall ever be molested in person or property, nor prohibited from holding any public office or trust, on account of his religious opinions.

Six. Freedom of speech, and freedom of the press, are inherent elements of political liberty. But while every citizen may freely speak or write or print on any subject, he shall be responsible for the abuse of the liberty.

Seven. The right of the people to appeal to the courts, to petition government on all matters of legitimate cognizance, and peaceably to assemble for the consideration of any matter of public concern, shall never be impaired.

Eight. Every person charged with an offence against the laws of the State shall have the privilege and benefit of counsel, shall be furnished on demand with a copy of the accusation, and list of the witnesses on whose testimony the charge against him is founded; shall have compulsory process to obtain the attendance of his own witnesses; shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury, as heretofore practised in Georgia.

Nine. No person shall be put in jeopardy of life or liberty more than once for the same offence, save on his or her own motion for a new trial after conviction, or in case of mistrial.

Ten. No conviction shall work corruption of blood or general forfeiture of estate.

Eleven. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Twelve. The powers of the courts to punish for contempt shall be limited by legislative acts.

Thirteen. Legislative acts in violation of the constitution are void, and the judiciary shall so declare them.

Fourteen. *Ex post facto* laws, laws impairing the obligation of contracts, and retroactive laws injuriously affecting any right of the citizen, are prohibited.

Fifteen. Laws should have a general operation, and no general law affecting private rights shall be varied in any particular case by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person being under a legal disability to contract is capable of such free consent.

Sixteen. The power of taxation over the whole State shall be exercised by the general assembly only to raise revenue for the support of government, to pay the public debt, to provide for the common defence, and for such other purposes as the general assembly may be specially required or empowered to accomplish by this constitution. But the general assembly may, by statute, grant the power of taxation for designated purposes, with such limitations as they may deem expedient, to county authorities and municipal corporations, to be exercised within their several territorial limits.

Seventeen. In cases of necessity, private ways may be granted upon just compensation being first paid; and with this exception private property shall not be taken, save for public use, and then only on just compensation, to be first provided and paid, unless there be a pressing, unforeseen necessity; in which event the general assembly shall make early provision for such compensation.

Eighteen. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place or places to be searched, and the persons and things to be seized.

Nineteen. The person of a debtor shall not be detained in prison, after delivery, for the benefit of his creditors, of all his estate not expressly exempted by law from levy and sale.

Twenty. The Government of the United States having, as a war-measure, proclaimed all slaves held or owned in this State emancipated from slavery, and having carried that proclamation into full practical effect, there shall henceforth be, within the State of Georgia, neither slavery or involuntary servitude, save as a punishment for crime, after legal conviction thereof: *Provided*, This acquiescence in the action of the Government of the United States is not intended to operate as a relinquishment, waiver, or estoppel of such claim for compensation of loss sustained by reason of the emancipation of his slaves as any citizen of Georgia may hereafter make upon the justice and magnanimity of that Government.

Twenty-one. The enumeration of rights herein contained is a part of this constitution, but shall not be construed to deny to the people any inherent rights which they have hitherto enjoyed.

Article II

Section 1. One. The legislative, executive, and judicial departments shall be distinct; and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

Two. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, the members whereof shall be elected and returns of the elections made in the manner now prescribed by law (until changed by the general assembly) on the 15th day of November, in the present year, and biennially thereafter, on the first Wednesday of October, to serve until their successors shall be elected; but the general assembly may, by law, change the day of election.

Three. The first meeting of the general assembly, under this constitution, shall be on the first Monday in December next, after which it shall meet annually on the first Thursday in November, or on such other day as the general assembly may prescribe. A majority of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of its absent members, as each house may provide. No session of the general assembly, after the first above mentioned, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

Four. No person holding any military commission, or other appointment, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, (except justices of the inferior court, justices of the peace, and officers of the militia,) nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative, after his qualification as such, be elected by the general assembly, or appointed by the governor, with the advice and consent of two-thirds of the senate, to any office or appointment having any emolument or compensation annexed thereto, during the time for which he shall have been elected.

Five. No person convicted of any felony before any court of this State, or of the United States, shall be eligible to any office or appointment of honor, profit, or trust, within this State, until he shall have been pardoned.

Six. No person who is collector or holder of public money shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

Sec. 2. There shall be forty-four senatorial districts in the State of Georgia, each composed of three contiguous counties, from each of which districts one senator shall be chosen, until otherwise arranged, as hereinafter provided.

The said districts shall be constituted of counties as follows:

The first district, of Chatham, Bryan, and Effingham.
The second, of Liberty, Tattnall, and MacIntosh.
The third, of Wayne, Pierce, and Appling.
The fourth, of Glynn, Camden, and Charlton.
The fifth, of Coffee, Ware, and Clinch.
The sixth, of Echols, Lowndes, and Berrien.
The seventh, of Brooks, Thomas, and Colquitt.
The eighth, of Decatur, Mitchell, and Miller.
The ninth, of Early, Calhoun, and Baker.
The tenth, of Dougherty, Lee, and Worth.
The eleventh, of Clay, Randolph, and Terrell.
The twelfth, of Stewart, Webster, and Quitman.
The thirteenth, of Sumter, Schley, and Macon.
The fourteenth, of Dooly, Wilcox, and Pulaski.
The fifteenth, of Montgomery, Telfair, and Irwin.
The sixteenth, of Laurens, Johnson, and Emanuel.
The seventeenth, of Bullock, Scriven, and Burke.
The eighteenth of Richmond, Glascock, and Jefferson.
The nineteenth, of Taliaferro, Warren, and Greene.

The twentieth, of Baldwin, Hancock, and Washington.
The twenty-first, of Twiggs, Wilkinson, and Jones.
The twenty-second, of Bibb, Monroe, and Pike.
The twenty-third, of Houston, Crawford, and Taylor.
The twenty-fourth, of Marion, Chattahoochee, and Muscogee.
The twenty-fifth, of Harris, Upson, and Talbot.
The twenty-sixth, of Spalding, Butts, and Fayette.
The twenty-seventh, of Newton, Walton, and Clarke.
The twenty-eighth, of Jasper, Putnam, and Morgan.
The twenty-ninth, of Wilkes, Lincoln, and Columbia.
The thirtieth, of Oglethorpe, Madison, and Elbert.
The thirty-first, of Hart, Franklin, and Habersham.
The thirty-second, of White, Lumpkin, and Dawson.
The thirty-third, of Hall, Banks, and Jackson.
The thirty-fourth, of Gwinnett, DeKalb, and Henry.
The thirty-fifth, of Clayton, Fulton, and Cobb.
The thirty-sixth, of Meriwether, Cowetta, and Campbell.
The thirty-seventh, of Troup, Heard, and Carroll.
The thirty-eighth, of Haralson, Polk, and Paulding.
The thirty-ninth, of Cherokee, Milton, and Forsyth.
The fortieth, of Union, Towns, and Rabun.
The forty-first, of Fannin, Gilmer, and Pickens.
The forty-second, of Bartow, Floyd, and Chattooga.
The forty-third, of Murray, Whitfield, and Gordon.
The forty-fourth, of Walker, Dade, and Catoosa.

If a new county be established, it shall be added to a district which it adjoins. The senatorial districts may be changed by the general assembly, but only at the first session after the taking of each new census by the United States Government, and their number shall never be increased.

Two. No person shall be a senator who shall not have attained to the age of twenty-five years and be a citizen of the United States, and have been for three years an inhabitant of this State, and for one year a resident of the district from which he is chosen.

Three. The presiding officer shall be styled the president of the senate, and shall be elected *viva voce* from their own body.

Four. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, profit, or trust within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. One. The house of representatives shall be composed as follows: The thirty-seven counties having the largest representative population shall have two representatives each. Every other county shall have one representative. The designation of the counties having two representatives shall be made by the general assembly immediately after the taking of each census.

Two. No person shall be a representative who shall not have

attained to the age of twenty-one years, and be a citizen of the United States, and have been for three years an inhabitant of the State, and for one year a resident of the county which he represents.

Three. The presiding officer of the house of representatives shall be styled the speaker, and shall be elected *viva voce* from their own body.

Four. They shall have the sole power to impeach all persons who have been or may be in office.

Five. All bills for raising revenue or appropriating money shall originate in the house of representatives; but the Senate may propose or concur in amendments, as in other bills.

Sec. 4. One. Each house shall be the judge of the election returns and qualifications of its own members; and shall have power to punish them for disorderly behavior or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled except by a vote of two-thirds of the house from which he is expelled.

Two. Each house may punish, by imprisonment, not extending beyond the session, any person not a member, who shall be guilty of a contempt by any disorderly behavior in its presence; or who, during the session, shall threaten injury to the person or estate of any member, for anything said or done in either house; or who shall assault any member therefor or who shall assault or arrest any witness going to or returning therefrom; or who shall rescue, or attempt to rescue, any person arrested by order of either house.

Third. The members of both houses shall be free from arrest during their attendance on the general assembly, and in going to and returning therefrom; except for treason, felony, or breach of the peace. And no member shall be liable to answer in any other place for anything spoken in debate in either house.

Four. Each house shall keep a journal of its proceedings, and publish them immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journals. The original journals shall be preserved (after publication) in the office of the secretary of state; but there shall be no other record thereof.

Five. Every bill, before it shall pass, shall be read three times, and on three separate and distinct days, in each house, unless in case of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Six. All acts shall be signed by the president of the senate and the speaker of the house of representatives; and no bill, ordinance, or resolution, intended to have the effect of law, which shall have been rejected by either house, shall be again proposed under the same or any other title without the consent of two-thirds of the house, by which the same was rejected.

Seven. Neither house shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two houses on a question of adjournment, the governor may adjourn them.

Eight. Every senator and representative, before taking his seat, shall take an oath or affirmation to support the Constitution of the United States and of this State; and also, that he hath not practised

any unlawful means, either directly or indirectly, to procure his election. And every person convicted of having given or offered a bribe shall be disqualified from serving as a member of either house for the term for which he was elected.

Nine. Whenever this constitution requires an act to be passed by two-thirds of both houses, the yeas and nays on the passage thereof shall be entered on the journals of each.

SEC. 5. One. The general assembly shall have power to make all laws and ordinances consistent with this constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Two. They may alter the boundaries of counties, and lay off and establish new counties; but every bill to establish a new county shall be passed by at least two-thirds of the members present in each branch of the general assembly.

Three. The general assembly shall have power to appropriate money for the promotion of learning and science, and to provide for the education of the people; and shall provide for the early resumption of the regular exercises of the University of Georgia, by the adequate endowment of the same.

Four. The general assembly shall have power, by a vote of two-thirds of each branch, to grant pardons in cases of final conviction for treason, and to pardon or commute after final conviction in capital cases.

Five. It shall be the duty of the general assembly, at its next session, and thereafter as the public welfare may require, to provide by law for the government of free persons of color; for the protection and security of their persons and property, guarding them and the State against any evil that may arise from their sudden emancipation, and prescribing in what cases their testimony shall be admitted in the courts; for the regulation of their transactions with citizens; for the legalizing of their existing and the contracting and solemnization of their future marital relations, and connected therewith their rights of inheritance and testamentary capacity; and for the regulation or prohibition of their immigration into this State from other States of the Union, or elsewhere. And further, it shall be the duty of the general assembly to confer jurisdiction upon courts now existing, or to create county courts with jurisdiction in criminal cases excepted from the exclusive jurisdiction of the superior court, and in civil cases whereto free persons of color may be parties.

SEC. 6. One. The general assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, plank-road, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make or change election precincts; nor to establish bridges and ferries; nor to change names, or legitimate children; but shall by law prescribe the manner in which such power shall be exercised by the courts. But no bank-charter shall be granted or extended, and no act passed authorizing the suspension of specie payment by any chartered bank, except by a vote of two-thirds of each branch of the general assembly.

Two. No money shall be drawn from the treasury of this State, except by appropriation made by law; and a regular statement and

account of the receipt and expenditure of all public money shall be published from time to time.

Three. No vote, resolution, law, or order shall pass, granting a donation or gratuity in favor of any person, except by the concurrence of two-thirds of the general assembly.

Four. No law shall be passed by which a citizen shall be compelled, directly or indirectly, to become a stockholder in or contribute to a railroad, or other work of internal improvement, without his consent, except the inhabitants of a corporate town or city. This provision shall not be construed to deny the power of taxation for the purpose of making levees or dams to prevent the overflow of rivers.

Article III

Section 1. One. The executive power shall be vested in a governor, the first of whom under this constitution shall hold the office from the time of his inauguration, as by law provided, until the election and qualification of his successor. Each governor subsequently elected shall hold the office for two years and until his successor shall be elected and qualified, and shall not be eligible to re-election after the expiration of a second term for the period of four years. He shall have a competent salary, which shall not be increased nor diminished during the time for which he shall have been elected; neither shall he receive within that time any other emolument from the United States, or either of them, nor from any foreign power.

Two. The governor shall be elected by the persons qualified to vote for members of the general assembly, on the fifteenth day of November, in the year eighteen hundred and sixty-five, and biennially thereafter, on the first Wednesday of October, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the manner prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the managers, separately from other returns, and directed to the president of the senate and speaker of the house of representatives; and transmitted to the governor, or the person exercising the duties of governor for the time being; who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized; and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate and the speaker of the house of representatives shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall immediately elect a governor *viva voce;* and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Three. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained the age of thirty years.

Four. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of the government until such disability be removed, or a successor is elected and qualified. And in case of the death, resignation, or disability of the president of the senate, the speaker of the house of representatives shall exercise the executive power of the government until the removal of the disability or the election and qualification of a governor.

Five. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear or affirm (as the case may be) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the constitution thereof, and the Constitution of the United States of America."

SEC. 2. One. The governor shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

Two. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons, or to remit any part of a sentence, in all cases after conviction, except for treason, murder, or other capital offences, in which cases he may respite the execution, and make report thereof to the next general assembly.

Three. He shall issue writs of election to fill vacancies that happen in the senate or house of representatives, and shall have power to convene the general assembly on extraordinary occasions; and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

Four. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy unless otherwise provided for by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this constitution, or by law in pursuance thereof.

Five. A person once rejected by the senate shall not be reappointed by the governor to the same office during the same session or the recess thereafter.

Six. The governor shall have the revision of all bills passed by both houses, before the same shall become laws, but two-thirds of each house may pass a law notwithstanding his dissent; and if any bill should not be returned by the governor within five days (Sundays excepted) after it has been presented to him, the same shall be law, unless the general assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each house.

Seven. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the governor; and before it shall take effect be approved by him, or, being disapproved, shall be

repassed by two-thirds of each house, according to the rules and limitations prescribed in the case of a bill.

Eight. There shall be a secretary of state, a comptroller-general, a treasurer, and surveyor-general, elected by the general assembly, and they shall hold their offices for the like period as the governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The general assembly may at any time consolidate any two of these offices, and require all the duties to be discharged by one officer.

Nine. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor or general assembly; and that used previously to the year 1861 shall be the great seal of the State.

Ten. The governor shall have power to appoint his own secretaries, not exceeding two in number.

Article IV

Section 1. One. The judicial powers of this State shall be vested in a supreme court for the correction of errors, a superior, inferior, ordinary, and justices' courts, and in such other courts as have been, or may be, established by law.

Two. The supreme court shall consist of three judges, who shall be elected by the general assembly, for such term of years, not less than six, as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified; removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Three. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and from the city courts of the cities of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit "at the seat of government" at such time or times in each year as the general assembly shall prescribe, for the trial and determination of writs of error from said courts.

Four. The said court shall dispose of and finally determine every case on the docket of such court, at the first or second term after such writ of error brought; and in case the plaintiff in error shall not be prepared at the first term of such court, after error brought, to prosecute the case, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket and the judgment below affirmed. And in any case that may occur, the court may, in its discretion, withhold its judgment until the term next after the argument thereon.

Sec. 2. One. The judges of the superior courts shall be elected on the first Wednesday in January, until the legislature shall otherwise direct, immediately before the expiration of the term for which they or either of them may have been appointed or elected, from the circuits in which they are to serve, by a majority vote of the people of the circuit qualified to vote for members of the general assembly, for the term of four years, vacancies to be filled as is provided by the laws of force prior to January 1, 1861, and shall continue in office until

their successors shall be elected and qualified; removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Two. The superior court shall have exclusive jurisdiction in all cases of divorce, both total and partial; but no total divorce shall be granted except on the concurrent verdicts of two special juries. In each divorce case, the court shall regulate the rights and disabilities of the parties.

Three. The superior courts shall also have exclusive jurisdiction in all criminal cases, except as relates to fines for neglect of duty, contempts of court, violation of road-laws, obstructions of watercourses, and in all other minor offences which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; jurisdiction of all such cases shall be vested in such county or corporation courts, or such other courts, judicatures, or tribunals as now exist, or may hereafter be constituted, under such rules and regulations as the legislature may have directed, or may hereafter by law direct.

Four. All criminal cases shall be tried in the county where the crime was committed, except in cases where a jury cannot be obtained.

Five. The superior court shall have exclusive jurisdiction in all cases respecting titles to land, which shall be tried in the county where the land lies; and also in all equity causes which shall be tried in the county where one or more of the defendants reside, against whom substantial relief is prayed.

Six. It shall have appellate jurisdiction in all such cases as may be provided by law.

Seven. It shall have power to correct errors in inferior judicatories by writ of *certiorari*, and to grant new trials in the superior court on proper and legal grounds.

Eight. It shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying its powers fully into effect.

Nine. The superior court shall have jurisdiction in all other civil cases, and in them the general assembly may give concurrent jurisdiction to the inferior court, or such other county court as they may hereafter create, which cases shall be tried in the county where the defendant resides.

Ten. In case of joint obligors, or joint promisors or copartners, or joint trespassers residing in different counties, the suit may be brought in either county.

Eleven. In case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides.

Twelve. The superior court shall sit in each county not less than twice in every year, at such stated times as have been or may be appointed by the general assembly, and the inferior and county courts at such times as the general assembly may direct.

Sec. 3. One. The judges shall have salaries adequate to their services fixed by law, which shall not be diminished nor increased during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

Two. There shall be a State's attorney and solicitors elected in the same manner as the judges of the superior court, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be appointed and qualified, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services fixed by law, which shall not be increased or diminished during their continuance in office.

Three. The justice or justices of the inferior court, and the judges of such other county court as may by law be created, shall be elected in each county by the persons entitled to vote for members of the general assembly.

Four. The justice of the peace shall be elected in each district by the persons entitled to vote for members of the general assembly.

Five. The powers of a court of ordinary and of probate shall be vested in an ordinary for each county, from whose decision there may be an appeal to the superior court, under regulations prescribed by law. The ordinary shall be *ex-officio* clerk of said court, and may appoint a deputy clerk. The ordinary, as clerk, or his deputy, may issue citations, and grant temporary letters of administration, to hold until permanent letters are granted; and said ordinary, as clerk, or his deputy, may grant marriage-licenses. The ordinaries in and for the respective counties shall be elected, as other county officers are, on the first Wednesday in January, 1868, and every fourth year thereafter, and shall be commissioned by the governor for the term of four years. In case of any vacancy of said office of ordinary, from any cause, the same shall be filled by election, as is provided in relation to other county officers, and until the same is filled, the clerk of the superior court for the time being shall act as clerk of said court of ordinary.

Article V

Section 1. One. The electors or members of the general assembly shall be free white male citizens of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they have had an opportunity of paying, agreeable to law, for the year preceding the election; shall be citizens of the United States, and shall have resided six months either in the district or county, and two years within this State, and no person not qualified to vote for members of the general assembly shall hold any office in this State.

Two. All elections by the general assembly shall be *viva voce*, and the vote shall always appear on the journal of the house of representatives, and where the Senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside and declare the person or persons elected.

Three. In all elections by the people the electors shall vote by ballot until the general assembly shall otherwise direct.

Four. All civil officers heretofore commissioned by the governor, or who have been duly appointed, or elected, since the first day of January last, but who have not received their commissions, and who have not resigned, nor been removed from office, and whose terms of

office shall not have expired, shall continue in the exercise of the duties of their respective offices during the periods for which they were duly appointed or duly elected as aforesaid, and commissioned, and until their successors shall be appointed under the provisions of this constitution, unless removed from office as herein provided.

Five. Laws of general operation now of force in this State are, 1st, as the supreme law, the Constitution of the United States; the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States; 2d, as next in authority thereto, this constitution; 3d, in subordination to the aforegoing, all laws declared of force by an act of the general assembly of this State, assented to December the 19th, A. D. 1860, entitled "An act to approve, adopt, and make of force, in the State of Georgia, a revised code of laws, prepared under the direction and by authority of the general assembly thereof, and for other purposes therewith connected," an act of the general assembly aforesaid, assented to December 16, A. D. 1861, amendatory of the aforegoing, and an act of the general assembly aforesaid, assented to December 13, A. D. 1862, entitled "An act to settle the conflicts between the code and the legislation of this general assembly;" also, all acts of the general assembly aforesaid, passed since the date last written, altering, amending, repealing, or adding to any portion of law hereinbefore mentioned, (the latter enactments having preference in case of conflict,) and also so much of the common and statute law of England, and of the statute laws of this State of force in Georgia in the year eighteen hundred and sixty, as is not expressly superseded by nor inconsistent with said codes, though not embodied therein; except so much of the law aforesaid as may violate the supreme law herein recognized, or may conflict with this constitution, and except so much thereof as refers to persons held in slavery, which excepted laws shall henceforth be inoperative and void, and any future general assembly of this State shall be competent to alter, amend, or repeal any portion of the law declared to be of force in this third specification of the fifth clause of this fifth article. If in any statute law herein declared of force the word "Confederate" occurs before the word States, such law is hereby amended by substituting the word "United" for the word "Confederate."

Six. Local and private statutes heretofore passed, intended for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this constitution, and which have neither expired by their own limitations nor have been repealed, shall have the force of statute law, subject to judicial decision as to their validity when enacted, and to any limitations imposed by their own terms.

Seven. All judgments, decrees, orders, and other proceedings of the several courts of this State, heretofore made within the limits of their several jurisdictions, are hereby ratified and affirmed, subject only to past and future reversal, by motion for new trial, appeal, bill of review, or other proceedings, in conformity with the law of force when they were made.

Eight. All rights, privileges, and immunities which may have vested in or accrued to any person or persons, in his, her, or their own right, or in any fiduciary capacity, under and in virtue of any act of

the general assembly, or of any judgment, decree, or order, or other proceeding of any court of competent jurisdiction in this State, since the first day of January, A. D. eighteen hundred and sixty-one, shall be held inviolate by all courts before which they may be brought in question, unless attacked for fraud.

Nine. The marriage relation between white persons and persons of African descent is forever prohibited, and such marriage shall be null and void; and it shall be the duty of the general assembly to enact laws for the punishment of any officer who shall knowingly issue a license for the celebration of such marriage, or any officer or minister of the gospel who shall marry such persons together.

Ten. All militia and county officers shall be elected by the people, under such regulations as have been or may be prescribed by law.

Eleven. This constitution shall be altered or amended only by a convention of the people, called for that purpose by act of the general assembly.

Signed November 7, 1865.

HERSCHEL V. JOHNSON, *President.*

Attest: J. D. WADDELL, *Secretary.*

CONSTITUTION OF GEORGIA—1868 [a] [b]

PREAMBLE

We, the people of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this constitution for the State of Georgia:

ARTICLE I

DECLARATION OF FUNDAMENTAL PRINCIPLES

SECTION 1. Protection to person and property is the paramount duty of government, and shall be impartial and complete.

SEC. 2. All persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State, and no laws shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or of this State, or deny to any person within its jurisdiction the equal protection of its laws. And it shall be the duty of the general assembly, by appropriate legislation, to protect every person in the due enjoyment of the rights, privileges, and immunities guaranteed in this section.

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[a] A convention, called by order of Major-General Meade, met at Atlanta December 9, 1867, and submitted this constitution to the people March 11, 1868. It was ratified, receiving 89,007 votes against 71,309 votes.

[b] See "Journal of the Proceedings of the Constitutional Convention of the People of Georgia, Held in the City of Atlanta in the Months of December, 1867, and January, February and March, 1868. And Ordinances and Resolutions Adopted. Published by Order of the Convention. Augusta, Georgia: E. H. Pughe, Book and Job Printer, 1868." pp. 540-562.

See also The Constitution of the State of Georgia with full Marginal Notes and a Copious and Analytical Index Thereto, by John L. Conley. 1870. 88 pp.

SEC. 3. No person shall be deprived of life, liberty, or property, except by due process of law.

SEC. 4. There shall be within the State of Georgia neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

SEC. 5. The right of the people to appeal to the courts, to petition government on all matters, and peaceably to assemble for the consideration of any matter, shall never be impaired.

SEC. 6. Perfect freedom of religious sentiment shall be, and the same is hereby, secured, and no inhabitant of this State shall ever be molested in person or property, or prohibited from holding any public office or trust, on account of his religious opinion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the people.

SEC. 7. Every person charged with an offence against the laws shall have the privilege and benefit of counsel, shall be furnished, on demand, with a copy of the accusation and a list of the witnesses on whose testimony the charge against him is founded, shall have compulsory process to obtain the attendance of his own witnesses, shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury.

SEC. 8. No person shall be put in jeopardy of life or liberty more than once for the same offence, save on his or her own motion for a new trial after conviction, or in case of mistrial.

SEC. 9. Freedom of speech and freedom of the press are inherent elements of political liberty. But while every citizen may freely speak, or write, or print on any subject, he shall be responsible for the abuse of the liberty.

SEC. 10. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or things to be seized.

SEC. 11. The social status of the citizen shall never be the subject of legislation.

SEC. 12. No person shall be molested for his opinions, or be subject to any civil or political incapacity, or acquire any civil or political advantage in consequence of such opinions.

SEC. 13. The writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. A well-regulated militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be infringed; but the general assembly shall have power to prescribe by law the manner in which arms may be borne.

SEC. 15. The punishment of all frauds shall be provided by law.

SEC. 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall any person be abused in being arrested, whilst under arrest, or in prison.

SEC. 17. The power of the courts to punish for contempt shall be limited by legislative acts.

SEC. 18. There shall be no imprisonment for debt.

SEC. 19. In all prosecutions or indictments for libel the truth may

be given in evidence, and the jury shall have the right to determine the law and the facts.

Sec. 20. Private ways may be granted upon just compensation being paid by the applicant.

Sec. 21. All penalties shall be proportioned to the nature of the offence.

Sec. 22. Whipping, as a punishment for crime, is prohibited.

Sec. 23. No lottery shall be authorized, or sale of lottery-tickets allowed, in this State, and adequate penalties for such sale shall be provided by law.

Sec. 24. No conviction shall work corruption of blood, and no conviction of treason shall work a general forfeiture of estate longer than during the life of the person attained.

That the cause or causes shall be notified to the judge so intended to

Sec. 25. Treason against the State of Georgia shall consist only in levying war against the State, or the United States, or adhering to the enemies thereof, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

Sec. 26. Laws shall have a general operation, and no general law, affecting private rights, shall be varied, in any particular case, by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person under legal disability to contract is capable of such free consent.

Sec. 27. The power of taxation over the whole State shall be exercised by the general assembly only to raise revenue for the support of government, to pay the public debt, to provide a general school-fund, for common defence and for public improvement; and taxation on property shall be *ad valorem* only, and uniform on all species of property taxed.

Sec. 28. The general assembly may grant the power of taxation to county authorities and municipal corporations, to be exercised within their several territorial limits.

Sec. 29. No poll-tax shall be levied except for educational purposes, and such tax shall not exceed one dollar annually on each poll.

Sec. 30. Mechanics and laborers shall have liens upon the property of their employers for labor performed or material furnished, and the legislature shall provide for the summary enforcement of the same.

Sec. 31. The legislative, executive, and judicial departments shall be distinct; and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

Sec. 32. Legislative acts in violation of this constitution, or the Constitution of the United States, are void, and the judiciary shall so declare them.

Sec. 33. The State of Georgia shall ever remain a member of the American Union: the people thereof are a part of the American nation; every citizen thereof owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this State, in contravention or subversion thereof, shall ever have any binding force.

Article II

FRANCHISE AND ELECTIONS

Section 1. In all elections by the people the electors shall vote by ballot.

Sec. 2. Every male person born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and shall have resided thirty days in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opportunity of paying, agreeably to law, for the year preceding the election, (except as hereinafter provided,) shall be deemed an elector; and every male citizen of the United States, of the age aforesaid, (except as hereinafter provided,) who may be a resident of the State at the time of the adoption of this constitution, shall be deemed an elector, and shall have all the rights of an elector, as aforesaid: *Provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State; and no person shall vote who, if challenged, shall refuse to take the following oath:

"I do swear that I have not given or received, nor do I expect to give or receive, any money, treat, or other thing of value, by which my vote, or any vote, is affected, or expected to be affected, at this election, nor have I given or promised any reward, or made any threat, by which to prevent any person from voting at this election."

Sec. 3. No person convicted of felony or larceny before any court of this State, or of or in the United States, shall be eligible to any office or appointment of honor or trust within this State, unless he shall have been pardoned.

Sec. 4. No person who is the holder of any public moneys shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

Sec. 5. No person who, after the adoption of this constitution, being a resident of this State, shall engage in a duel in this State, or elsewhere, or shall send or accept a challenge, or be aider or abettor to such duel, shall vote or hold office in this State; and every such person shall also be subject to such punishment as the law may prescribe.

Sec. 6. The general assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote, or hold office: 1st. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery; 2d. Idiots or insane persons.

Sec. 7. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest for five days before an election, during the election, and two days subsequent thereto.

Sec. 8. The sale of intoxicating liquors on days of election is prohibited.

SEC. 9. Returns of election for all civil officers elected by the people, who are to be commissioned by the governor, and also for the members of the general assembly, shall be made to the secretary of state, unless otherwise provided by law.

SEC. 10. The general assembly shall enact laws giving adequate protection to electors before, during, and subsequent to elections.

SEC. 11. The election of governor, members of Congress, and of the general assembly, after the year 1868, shall commence on the Tuesday after the first Monday in November, unless otherwise provided by law.

ARTICLE III

LEGISLATIVE DEPARTMENT

SECTION 1. One. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, and, until otherwise directed, the members thereof, after the first election, shall be elected, and the returns of the election made, as now prescribed by law.

Two. The members of the senate shall be elected for four years, except that the members elected at the first election from the twenty-two senatorial districts numbered in this constitution with odd numbers, shall only hold their office for two years. The members of the house of representatives shall be elected for two years. The election for members of the general assembly shall begin on Tuesday after the first Monday in November of every second year, except the first election, which shall be within sixty days after the adjournment of this convention; but the general assembly may by law change the time of election, and the members shall hold until their successors are elected and qualified.

Three. The first meeting of the general assembly shall be within ninety days after the adjournment of this convention, after which it shall meet annually on the second Wednesday in January, or on such other day as the general assembly may prescribe. A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and compel the presence of its absent members as each house may provide. No session of the general assembly, after the second under this constitution, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

Four. No person holding a military commission, or other appointment or offices, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, except justices of the peace and officers of the militia, nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either house; nor shall any senator or representative, after his qualification as such, be elected by the general assembly, or appointed by the governor, either with or without the advice and consent of the senate, to any office or appointment, having any emolument annexed thereto, during the time for which he shall have been elected.

Five. The seat of a member of either house shall be vacated on his removal from the district from which he was elected.

SEC. 2. One. There shall be forty-four senatorial districts in this State, composed each of three contiguous counties, from each of which districts one senator shall be chosen. Until otherwise arranged, as hereinafter provided, the said districts shall be constituted as follows:

The first district, of Chatham, Bryan, and Effingham.
The second district, of Liberty, Tatnall, and McIntosh.
The third district, of Wayne, Pierce, and Appling.
The fourth district, of Glynn, Camden, and Charlton.
The fifth district, of Coffee, Ware, and Clinch.
The sixth district, of Echols, Lowndes, and Berrien.
The seventh district, of Brooks, Thomas, and Colquitt.
The eighth district, of Decatur, Mitchell, and Miller.
The ninth district, of Early, Calhoun, and Baker.
The tenth district, of Dougherty, Lee, and Worth.
The eleventh district, of Clay, Randolph, and Terrell.
The twelfth district, of Stewart, Webster, and Quitman.
The thirteenth district, of Sumter, Schley, and Macon.
The fourteenth district, of Dooly, Wilcox, and Pulaski.
The fifteenth district, of Montgomery, Telfair, and Irwin.
The sixteenth district, of Laurens, Johnson, and Emanuel.
The seventeenth district, of Bullock, Scriven, and Burke.
The eighteenth district, of Richmond, Glascock, and Jefferson.
The nineteenth district, of Taliaferro, Warren, and Greene.
The twentieth district, of Baldwin, Hancock, and Washington.
The twenty-first district, of Twiggs, Wilkinson, and Jones.
The twenty-second district, of Bibb, Monroe, and Pike.
The twenty-third district, of Houston, Crawford, and Taylor.
The twenty-fourth district, of Marion, Chattahoochee, and Muscogee.
The twenty-fifth district, of Harris, Upson, and Talbot.
The twenty-sixth district, of Spalding, Butts, and Fayette.
The twenty-seventh district, of Newton, Walton, and Clarke.
The twenty-eighth district, of Jasper, Putnam, and Morgan.
The twenty-ninth district, of Wilkes, Lincoln, and Columbia.
The thirtieth district, of Oglethorpe, Madison, and Elbert.
The thirty-first district, of Hart, Franklin, and Habersham.
The thirty-second district, of White, Lumpkin, and Dawson.
The thirty-third district, of Hall, Banks, and Jackson.
The thirty-fourth district, of Gwinnett, DeKalb, and Henry.
The thirty-fifth district, of Clayton, Fulton, and Cobb.
The thirty-sixth district, of Meriwether, Coweta, and Campbell.
The thirty-seventh district, of Troup, Heard, and Carroll.
The thirty-eighth district, of Haralson, Polk, and Paulding.
The thirty-ninth district, of Cherokee, Milton, and Forsyth.
The fortieth district, of Union, Towns, and Rabun.
The forty-first district, of Fannin, Gilmer, and Pickens.
The forty-second district, of Bartow, Floyd, and Chattooga.
The forty-third district, of Murray, Whitfield, and Gordon.
The forty-fourth district, of Walker, Dade, and Catoosa.

If a new county be established it shall be added to a district which it adjoins, and from which the larger portion of its territory is taken. The senatorial districts may be changed by the general assembly, but

only at the first session after the publication of each census by the United States Government, and their number shall not be increased.

Two. The senators shall be citizens of the United States, who have attained the age of twenty-five years, and who, after the first election under this constitution, shall have been citizens of this State for two years, and for one year resident of the district from which elected.

Three. The presiding officer of the senate shall be styled the president of the senate, and shall be elected *viva voce* from the senators.

Four. The senate shall have the sole power to try impeachments. When sitting for that purpose the members shall be on oath or affirmation, and shall be presided over by one of the judges of the supreme court, selected for that purpose by a *viva-voce* vote of the senate; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgments in cases of impeachment shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

Sec. 3. One. The house of representatives shall consist of one hundred and seventy-five representatives, apportioned as follows: to the six largest counties, to wit, Chatham, Richmond, Fulton, Bibb, Houston, and Burke, three representatives each: to the thirty-one next largest, to wit, Bartow, Columbia, Cobb, Coweta, Clarke, Decatur, Dougherty, Floyd, Gwinnett, Greene, Hancock, Harris, Jefferson, Lee, Muscogee, Monroe, Meriwether, Morgan, Macon, Newton, Oglethorpe, Pulaski, Randolph, Sumter, Stewart, Troup, Thomas, Talbot, Washington, Wilkes, and Warren, two representatives each; and to the remaining ninety-five counties, one representative each.

Two. The above apportionment may be changed by the general assembly after each census by the United States Government, but in no event shall the aggregate number of representatives be increased.

Three. The representatives shall be citizens of the United States who have attained the age of twenty-one years, and who, after the first election under this constitution, shall have been citizens of this State for one year, and for six months resident of the counties from which elected.

Four. The presiding officer of the house of representatives shall be styled the speaker of the house of representatives, and shall be elected *viva voce* from the body.

Five. The house of representatives shall have the sole power to impeach all persons who shall have been or may be in office.

Six. All bills for raising revenue, or appropriating money, shall originate in the house of representatives, but the senate may propose or concur in amendments, as in other bills.

Sec. 4. One. Each house shall be the judge of the election, returns, and qualifications of its members, and shall have power to punish them for disorderly behavior, or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled, except by a vote of two-thirds of the house from which he is expelled.

Two. Each house may punish, by imprisonment, not extending beyond the session, any person, not a member, who shall be guilty of a contempt by any disorderly behavior in its presence, or who, during

the session, shall threaten injury to the person or estate of any member for anything said or done in either house, or who shall assault any member going to or returning therefrom, or who shall rescue or attempt to rescue any person arrested by order of either house.

Three. The members of both houses shall be free from arrest during their attendance on the general assembly, and in going to or returning therefrom, except for treason, felony, larceny, or breach of the peace; and no member shall be liable to answer in any other place for anything spoken in debate in either house.

Four. Each house shall keep a journal of its proceedings, and publish it immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal. The original journal shall be preserved, after publication, in the office of the secretary of state, but there shall be no other record thereof.

Five. Every bill, before it shall pass, shall be read three times, and on three separate days, in each house, unless in cases of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Six. All acts shall be signed by the president of the senate and the speaker of the house of representatives; and no bill, ordinance, or resolution, intended to have the effect of a law, which shall have been rejected by either house, shall be again proposed during the same session, under the same or any other title, without the consent of two-thirds of the house by which the same was rejected.

Seven. Neither house shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two houses on a question of adjournment, the governor may adjourn either or both of them.

Eight. The officers of the two houses, other than the president and speaker, shall be a secretary of the senate, and clerk of the house, and an assistant for each: a journalizing clerk, two engrossing and two enrolling clerks for each house, and the number shall not be increased except by a vote of the house. And their pay, as well as the pay and mileage of the members, shall be fixed by law.

Nine. Whenever the constitution requires a vote of two-thirds of either or both houses for the passing of an act or resolution, the yeas and nays on the passage thereof shall be entered on the journal, and all votes on confirmations, or refusals to confirm nominations to office by the governor, shall be by yeas and nays, and the yeas and nays shall be recorded on the journal.

Ten. Every senator, or representative, before taking his seat, shall take an oath, or affirmation, to support the Constitution of the United States, and of this State; that he has not practised any unlawful means, directly or indirectly, to secure his election, and that he has not given, or offered, or promised, or caused to be given, or offered, or promised, to any person, any money, treat, or thing of value, with intent to affect any vote, or to prevent any person voting at the election at which he was elected.

SEC. 5. One. The general assembly shall have power to make all laws and ordinances, consistent with this constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Two. The general assembly may alter the boundaries of, or lay off or establish new counties, or abolish counties, attaching the territory thereof to contiguous counties; but no new county shall be established except by a vote of two-thirds of each house: nor shall any county be abolished except by a vote of two-thirds of each house, and after the qualified voters of the county shall, at an election held for the purpose, so decide.

SEC. 6. One. No money shall be drawn from the treasury except by appropriation made by law; and a regular statement and account of the receipt and expenditure of all public money shall be published from time to time, and, also, with the laws passed by each session of the general assembly.

Two. No vote, resolution, law, or order, shall pass, granting a donation, or gratuity, in favor of any person, except by the concurrence of two-thirds of each branch of the general assembly, nor, by any vote, to a sectarian corporation or association.

Three. No law or section of the code shall be amended or repealed by mere reference to its title, or to the number of the section in the code, but the amending or repealing act shall distinctly and fully describe the law to be amended or repealed, as well as the alteration to be made; but this clause shall be construed as directory only to the general assembly.

Four. No law shall be passed by which a citizen shall be compelled against his consent, directly or indirectly, to become a stockholder in, or contribute to, any railroad or work of public improvement, except in the case of the inhabitants of a corporate town or city. In such cases, the general assembly may permit the corporate authorities to take such stock, or make such contribution, or engage in such work, after a majority of the qualified voters of such town or city, voting at an election held for the purpose, shall have voted in favor of the same; but not otherwise.

Five. The general assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make or change, election precincts; nor to establish bridges or ferries; nor to change names or legitimate children; but it shall prescribe, by law, the manner in which such powers shall be exercised by the courts. But no charter for any bank shall be granted or extended, and no act passed authorizing the suspension of specie payments by any bank, except by a vote of two-thirds of the general assembly. The general assembly shall pass no law naming the State a stockholder in any corporate company; nor shall the credit of the State be granted or loaned to aid any company without a provision that the whole property of the company shall be bound for the security of the State, prior to any other debt or lien, except to laborers; nor to any company in which there is not already an equal amount invested by private persons; nor for any other object than a work of public improvement. No provision in this constitution for a two-thirds vote of both houses of the general assembly shall be construed to waive the necessity for the signature of the governor, as in any other cases, except in the case of the two-thirds vote required to override the veto.

Article IV

EXECUTIVE DEPARTMENT

Section 1. One. The executive power shall be vested in a governor, who shall hold his office during the term of four years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; nor shall he receive within that period any other emolument from the United States, or either of them, or from any foreign power.

Two. After the first election, the governor shall be elected quadrennially, by the persons qualified to vote for members of the general assembly, on the Tuesday after the first Monday in November, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor, after the first, shall be sealed up by the managers, separately from other returns, and directed to the president of the senate and speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate on the day after the two houses shall have been organized; and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative hall, and the president of the senate and the speaker of the house of representatives shall open and publish the returns in the presence of the general assembly; and the person having the majority of the whole number of votes given shall be declared duly elected governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall immediately elect a governor *viva voce;* and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Three. No person shall be eligible to the office of governor who shall not have been a citizen of the United States fifteen years, and a citizen of this State six years, and who shall not have attained the age of thirty years.

Four. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of the government until such disability be removed or a successor is elected and qualified. And in case of the death, resignation, or disability of the president of the senate, the speaker of the house of representatives shall exercise the executive powers of the government until the removal of the disability or the election and qualification of a governor. The general assembly shall have power to provide by law for filling unexpired terms by a special election.

Five. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia, and will, to the best of my ability, preserve, protect, and defend the constitution thereof, and the Constitution of the United States of America."

SEC. 2. One. The governor shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

Two. He shall have power to grant reprieves and pardons, to commute penalties, and to remit any part of a sentence for offences against the State, except in cases of impeachment.

Three. He shall issue writs of election to fill all vacancies that happen in the senate or house of representatives, and shall have power to convoke the general assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the commonwealth, and recommend to their consideration such measures as he may deem necessary and expedient.

Four. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy, unless otherwise provided by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this constitution, or by law, in pursuance thereof.

Five. A person once rejected by the senate shall not be reappointed by the governor to the same office during the same session, or the recess thereafter.

Six. The governor shall have the revision of all bills passed by both houses before the same shall become laws, but two-thirds of each house may pass a law, notwithstanding his dissent, and if any bill should not be returned by the governor within five days (Sunday excepted) after it has been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each house.

Seven. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of each house, according to the rules and limitations prescribed in case of a bill.

Eight. There shall be a secretary of state, a comptroller-general, a treasurer, and surveyor-general, elected by the general assembly, and they shall hold their offices for the like period as the governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The general assembly may, at any time, consolidate any two of these offices, and require all the duties to be discharged by one officer.

Nine. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor, or general assembly; and that now in use shall be the great seal of the State until otherwise provided by law.

Ten. The governor shall have power to appoint his own secretaries, not exceeding two in number, unless more shall be authorized by the general assembly.

Article V

JUDICIAL DEPARTMENT

Section 1. One. The judicial powers of this State shall be vested in a supreme court, superior courts, courts of ordinary, justices of the peace, commissioned notaries public, and such other courts as have been or may be established by law.

Sec. 2. One. The supreme court shall consist of three judges, two of whom shall constitute a quorum. When a majority of the judges are disqualified from deciding any case, by interest or otherwise, the governor shall designate certain judges of the superior courts to sit in their stead. At the first appointment of judges of the supreme court under this constitution, one shall be appointed for four years, one for eight years, and one for twelve years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of twelve years.

Two. The supreme court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors from the superior courts and from the city courts of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit at the seat of government at such times in each year as shall be prescribed by law, for the trial and determination of writs of error from said superior and city courts. The days on which the cases from the several circuits and city courts shall be taken up by the court shall be fixed by law.

Three. The supreme court shall dispose of every case at the first or second term after such writ of error is brought; and in case the plaintiff in error shall not be prepared at the first term to prosecute the case, unless prevented by providential cause, it shall be stricken from the docket, and the judgment below shall stand affirmed. In any case the court may, in its discretion, withhold its judgment until the next term after the same is argued.

Four. When only two judges sit in any case, and they disagree, the judgment below shall stand affirmed.

Sec. 3. One. There shall be a judge of the superior courts for each judicial circuit. He may act in other circuits when authorized by law. At the first appointment of such judges under this constitution, one-half of the number (as near as may be) shall be appointed for four years, and the other half for eight years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of eight years.

Two. The superior courts shall have exclusive jurisdiction in cases of divorce; in criminal cases, where the offender is subjected to loss of life or confinement in the penitentiary; in cases respecting titles to land and equity cases, except as hereinafter provided; but the general assembly shall have power to merge the common law and equity jurisdiction of said courts. Said courts shall have jurisdiction in all other civil cases, except as hereinafter provided. They shall have appellate jurisdiction in all such cases as may be provided by law; they shall have power to correct errors in inferior judicatories, by writ of *certiorari*, which shall only issue on the sanction of the judge; and to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs that may be necessary for carrying their powers fully

into effect, and shall have such other powers as shall be conferred on them by law.

Three. There shall be no appeal from one jury in the superior courts to another, but the court may grant new trials on legal grounds. The court shall render judgment without the verdict of a jury in all civil cases founded on contract, where an issuable defence is not filed on oath.

Four. The superior courts shall sit in each county not less than twice in each year, at such times as have been or may be appointed by law.

Sec. 4. One. Until the general assembly shall otherwise direct, there shall be a district judge and a district attorney for each senatorial district in this State.

Two. The district judge shall have jurisdiction to hear and determine all offences not punishable with death or imprisonment in the penitentiary; and it shall be the duty of the district attorney to represent the State in all cases before the district judge.

Three. The district judge shall sit at stated times, not less than once in each month in each county in his district for the trial of offences, and at such other times as the general assembly may direct.

Four. Offences shall be tried before the district judge on a written accusation founded on affidavit; said accusation shall plainly set forth the offence charged, and shall contain the name of the accuser, and be signed by the district attorney.

Five. There shall be no jury-trial before the district judge except when demanded by the accused, in which case the jury shall consist of seven.

Six. Such civil jurisdiction may be conferred on the district judges as the general assembly may direct.

Seven. The district judges and attorneys shall hold their offices for a period of four years, and shall receive for their services such stated compensation in their respective districts as may be provided by law, but in no event shall their compensation be in anywise dependent on fines, forfeitures, or costs.

Sec. 5. One. The powers of a court of ordinary and of probate shall be vested in an ordinary for each county, from whose decision there may be an appeal to the superior court, under regulations prescribed by law.

Two. The courts of ordinary shall have such powers in relation to roads, bridges, ferries, public buildings, paupers, county officers, county funds and taxes, and other matters, as shall be conferred on them by law.

Three. The ordinary shall hold his office for the term of four years, and until his successor is elected and qualified.

Sec. 6. One. There shall be in each district one justice of the peace, whose official term, except when elected to fill an unexpired term, shall be four years.

Two. The justices of the peace shall have jurisdiction, except as hereinafter provided, in all civil cases where the principal sum claimed does not exceed one hundred dollars, and may sit at any time for the trial of such cases; but in cases where the sum claimed is more than fifty dollars, there may be an appeal to the superior court, under such regulations as may be prescribed by law.

Three. There shall be no appeal to a jury from the decision of a justice of the peace, except as provided in the foregoing paragraph.

Four. Notaries public may be appointed and commissioned by the governor, not to exceed one for each militia district, for a term of four years, and shall be *ex-officio* justices of the peace.

Sec. 7. One. There shall be an attorney-general of the State, whose official term, except when appointed to fill an unexpired term, shall be four years.

Two. It shall be the duty of the attorney-general to act as the legal adviser of the executive department, to represent the State in all civil and criminal cases in the supreme and superior courts when required by the governor, and to perform such other services as shall be required of him by law.

Sec. 8. One. There shall be a solicitor-general for each judicial circuit, whose official term, except when appointed to fill an unexpired term, shall be four years.

Two. It shall be the duty of the solicitor-general to represent the State in all cases in the superior courts of his circuit, and in all cases taken up from his circuit to the supreme court, and to perform such other services as shall be required of him by law.

Sec. 9. One. The judges of the supreme and the superior courts, the attorney-general, solicitors-general, and the district judges and attorneys, shall be appointed by the governor, with the advice and consent of the senate, and shall be removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Two. Justices of the peace shall be elected by the legal voters in their respective districts, and shall be commissioned by the governor. They shall be removable on conviction for malpractice in office.

Sec. 10. One. The judges of the supreme and superior courts and the attorney and solicitors general shall have, out of the State treasury, adequate and honorable salaries on the specie basis, which shall not be increased or diminished during their continuance in office. The district judges and district attorneys shall receive, out of the treasuries of the several counties of their districts, adequate compensation, on the specie basis, which shall not be increased or diminished during their term of office; but said judges shall not receive any other perquisites or emoluments whatever from parties or others on account of any duty required of them.

Two. The general assembly shall provide for the equitable apportionment of the compensation of the district judges and attorneys between the counties composing their districts, and shall require the moneys arising from fines and forfeitures in the district courts to be paid into the treasuries thereof.

Three. No person shall be judge of the supreme or superior courts, or attorney-general, unless at the time of his appointment he shall have attained the age of thirty years, and shall have been a citizen of this State three years, and have practised law for seven years.

Sec. 11. One. No total divorce shall be granted except on the concurrent verdicts of two juries. When a divorce is granted, the jury rendering the final verdict shall determine the rights and disabilities of the parties, subject to the revision of the court.

Sec. 12. One. Divorce cases shall be tried in the county where the defendant resides, if a resident of this State.

Two. Criminal cases shall be tried in the county where the crime was committed, except cases in the superior courts when the presiding

judge is satisfied that an impartial jury cannot be obtained in such county.

Three. Cases respecting titles to land shall be tried in the county where the land lies, except where a single tract is divided by a county-line, in which case the superior court of either county shall have jurisdiction.

Four. Equity cases shall be tried in the county where a defendant resides against whom substantial relief is prayed.

Five. Suits against joint promisors, copartners, or joint trespassers, residing in different counties, may be tried in either county.

Six. Suits against the maker and indorser of promissory notes, or other like instruments, residing in different counties, shall be tried in the county where the maker resides.

Seven. All other cases shall be tried in the county where the defendant resides.

SEC. 13. One. The right of trial by jury, except where it is otherwise provided in this constitution, shall remain inviolate.

Two. The general assembly shall provide by law for the selection of upright and intelligent persons to serve as jurors. There shall be no distinction between the classes of persons who compose grand and petit juries. Jurors shall receive adequate compensation for their services, to be prescribed by law.

SEC. 14. One. The courts heretofore existing in this State styled inferior courts are abolished, and their unfinished business, and the duties of the justices thereof, are transferred to such tribunals as the general assembly may designate.

SEC. 15. One. The general assembly shall have power to provide for the creation of county commissioners in such counties as may require them, and to define their duties.

SEC. 16. One. All courts not specially mentioned by name in the first section of this article may be abolished in any county, at the discretion of the general assembly, and the county courts now existing in Georgia are hereby abolished.

SEC. 17. One.[a] No court of officer shall have, nor shall the general assembly give, jurisdiction or authority to try or give judgment on

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[a] The act of Congress, approved June 25, 1868, admitting the State of Georgia to representation in Congress, amended and abridged this subdivision, which in the original constitution read as follows:

"SEC. 17. One. No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the 1st day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution, or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the 1st day of June, 1865, except in the following cases:

"1. In suits against trustees, where the trust-property is in the hands of the trustee, or has been invested by him in other specific effects now in his hands, and in suits by the vendor of real estate against the vendee, where not more than one-third of the purchase-money has been paid, and the vendee is in possession of the land or specific effects for which he has sold it, and he refuses to deliver the land or said effects to the vendor. In such cases the courts and officers may entertain jurisdiction and enforce judgments against said trust-property or land or effects.

"2. In suits for the benefit of minors by trustees appointed before the 1st day of June, 1865.

"3. In suits against corporations in their corporate capacity, but not so as to

or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof.

Two. All contracts made and not executed during the late rebellion, with the intention and for the purpose of aiding and encouraging said rebellion, or where it was the purpose and intention of any one of the parties to such contract to aid or encourage such rebellion, and that fact was known to the other party, whether said contract was made by any person or corporation with the State or Confederate States, or by a corporation with a natural person, or between two or more natural persons, are hereby declared to have been and to be illegal, and all bonds, deeds, promissory notes, bills, or other evidences of debt, made or executed by the parties to such contract, or either of them, in connection with such illegal contract, or as the consideration therefor or in furtherance thereof, are hereby declared null and void, and shall be so held in all courts in this State when attempt shall be made to enforce any such contract or give validity to any such obligation or evidence of debt. And in all cases when the defendant or any one interested in the event of the suit will make a plea, supported by his or her affidavit, that he or she has reason to believe that the obligation or evidence of indebtedness upon which the suit is predicated, or some part thereof, has been given or used for the illegal purpose aforesaid, the burden of proof shall be upon the plantiff to satisfy the court and jury that the bond, deed, note, bill, or other evidence of indebtedness upon which said suit is brought, is or are not, nor is any part thereof, founded upon or in any way connected with any such illegal contract, and has not been used in aid of the rebellion, and the date of such bond, deed, note, bill, or other evidence of indebtedness shall not be evidence that it has or has not, since its date, been issued, transferred, or used in aid of the rebellion.[a]

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enforce the debt against the stockholders or officers thereof in their individual capacity.

"4. In suits by charitable or literary institutions for money loaned, property (other than slaves) sold, or services rendered by such institutions.

"5. In suits on debts due for mechanical or manual labor when the suit is by the mechanic or laborer.

"6. In cases when the debt is set up by way of defence, and the debt set up exceeds any debt due by defendant to plaintiff of which the courts are denied jurisdiction.

"7. In all other cases in which the general assembly shall, by law, give the said courts and officers jurisdiction: *Provided*, That no court or officer shall have, nor shall the general assembly give, jurisdiction or authority to try or give judgment on or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof."

[a] The act of Congress, approved June 25, 1868, admitting the State of Georgia to representation in Congress, declared null and void a third subdivision of section seventeen of the fifth article, which in the original constitution read as follows:

"Three. It shall be in the power of the general assembly to assess and collect upon all debts, judgments, or causes of action when due, founded on any contract made or implied before the 1st day of June, 1865, in the hands of any one in his own right, or as trustee, agent, or attorney of another, on or after the 1st day of January, 1868, a tax of not exceeding twenty-five per cent., to be paid by the creditor on pain of the forfeiture of the debt, but chargeable by him as to one-half thereof against the debtor, and collectible with the debt: *Provided*, That this tax shall not be collected if the debt or cause of action be abandoned or settled without legal process, or, if in judgment, be settled without levy and sale: *And provided further*, That this tax shall not be levied so long as the courts of this State shall not have jurisdiction of such debts or causes of action."

Article VI

EDUCATION

One. The general assembly, at its first session after the adoption of this constitution, shall provide a thorough system of general education, to be forever free to all children of the State, the expense of which shall be provided for by taxation or otherwise.

Two. The office of State school commissioner is hereby created. He shall be appointed by the governor with the consent of the senate, and shall hold his office for the same term as the governor. The general assembly shall provide for the said commissioner a competent salary and necessary clerks. He shall keep his office at the seat of government.

Three. The poll-tax allowed by this constitution, any educational fund now belonging to this State, except the endowment of and debt due to the State university, or that may hereafter be obtained in any way, a special tax on shows and exhibitions, and on the sale of spirituous and malt liquors, which the general assembly is hereby authorized to assess, and the proceeds from the commutation for militia service, are hereby set apart and devoted to the support of common schools. And if the provisions herein made shall, at any time, prove insufficient, the general assembly shall have power to levy such general tax upon the property of the State as may be necessary for the support of said school-system. And there shall be established, as soon as practicable, one or more common schools in each school-district in this State.

Article VII

HOMESTEAD AND EXEMPTION

Section 1. One. Each head of a family, or guardian, or trustee, of a family of minor children, shall be entitled to a homestead of realty to the value of $2,000 in specie, and personal property to the value of $1,000 in specie, both to be valued at the time they are set apart. And no court or ministerial officer in this State shall ever have jurisdiction or authority to enforce any judgment, decree, or execution against said property so set apart, including such improvements as may be made thereon, from time to time, except for taxes, money borrowed and expended in the improvement of the homestead, or for the purchase-money of the same, and for labor done thereon, or material furnished therefor, or removal of encumbrances thereon. And it shall be the duty of the general assembly, as early as practicable, to provide, by law, for the setting apart and valuation of said property, and to enact laws for the full and complete protection and security of the same to the sole use and benefit of said families as aforesaid.

Two. All property of the wife, in her possession at the time of her marriage, and all property given to, inherited, or acquired by her, shall remain her separate property, and not liable for the debts of her husband.

Article VIII

MILITIA

Section 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or this State; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law; subject to the paramount authority of Congress over this subject.

Sec. 2. Volunteer companies of cavalry, infantry, or artillery may be formed in such manner, and with such restrictions, as may be provided by law.

Sec. 3. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for exemption: the amount to be prescribed by law and appropriated to the common-school fund.

Article IX

COUNTY OFFICERS

One. The county officers recognized as existing by the laws of this State, and not abolished by this constitution, shall, where not otherwise provided for in this constitution, be elected by the qualified voters of their respective counties or districts, and shall hold their offices for two years. They shall be removable on conviction for malpractice in office, or on the address of two-thirds of the senate.

Article X

SEAT OF GOVERNMENT

One. The seat of government of this State, from and after the date of the ratification of this constitution, shall be in the city of Atlanta, and the general assembly shall provide for the erection of a new capitol, and such other buildings as the public welfare may require.

Two. The general assembly shall have power to provide for the temporary removal of the seat of government in case of invasion, pestilence, or other emergency.

Article XI

THE LAWS OF GENERAL OPERATION IN FORCE IN THIS STATE ARE—

One. As the supreme law, the Constitution of the United States, the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States.

Two. As next in authority thereto, this constitution.

Three. In subordination to the foregoing, all acts passed by any legislative body, sitting in this State as such, since the 19th day of January, 1861, including that body of laws known as the code of

Georgia, and the acts amendatory thereof, or passed since that time, which said code and acts are embodied in the printed book known as "Irwin's Code;" and also so much of the common and statute laws of England, and of the statute laws of Georgia, as were in force in this State on the 19th day of December, 1860, as are not superseded by said code, though not embodied therein, except so much of the said several statutes, code, and laws as may be inconsistent with the supreme law herein recognized, or may have been passed in aid of the late rebellion against the United States, or may be obsolete, or may refer to persons held in slavery, which excepted laws are inoperative and void; and any future general assembly shall be competent to alter or repeal (if not herein prohibited) any portion of the laws declared to be of force in this third specification of this clause of this article; and if in any of said laws herein declared of force the word "Confederate" occurs before the word "States," such law is hereby amended by substituting the word "United" for the word "Confederate."

Four. Local and private acts passed for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this constitution, and which have not expired or been repealed, shall have the force of statute law, subject to judicial decision as to their validity when passed, and to any limitatons imposed by their own terms.

Five. All rights, privileges, and immunities which may have vested in, or accrued to, any person or persons, or corporation, in his, her, or their right, or in any fiduciary capacity, under any act of any legislative body sitting in this State as such, or of any decree, judgment, or order of any court, sitting in this State, under the laws then of force and operation therein, and recognized by the people as a court of competent jurisdiction, since the 19th day of January, 1861, shall be held inviolate by all the courts of this State, unless attacked for fraud, or unless otherwise declared invalid by, or according to, this constitution.

Six. The records, dockets, books, papers, and proceedings of any court or office existing in this State by the laws thereof on the 19th of January, 1861, or purporting to exist by said laws, and recognized and generally obeyed by the people, as such, since the said time, and before the several courts and officers provided for by this constitution shall have gone into actual operation, shall be transferred to the several courts and offices of the same name or functions by this constitution provided for, and shall have force and be executed, perfected, and performed therein, and thereby, as follows, and not otherwise, to wit:

Final judgments, decrees, proceedings, and acts fully executed and performed, or not requiring performance or execution, shall have full force and effect as though no interruption had taken place in the legal succession of said courts and offices, except as herein otherwise provided. Proceedings not final, and judgments and decrees not fully executed or performed, shall proceed and be performed in such cases, and such cases only, as this constitution, or the laws made in pursuance thereof, confer jurisdiction and authority over the causes of actions on which said cases, judgments, decrees, or proceedings, civil or criminal, are founded: *Provided*, That all said judgments, decrees, and proceedings shall be subject to be set aside, or reversed,

or vacated, by proceedings in the several courts having custody of the records, as though they were the judgments of said courts, and shall be subject always to be explained as to the meaning of the word dollar or dollars, as used in the same, and no motion for a new trial, bill of review, or other proceeding, to vacate any judgment, order, or decree, made since the 19th of January, 1861, by any of said courts, for fraud, illegality, or error of law, shall be denied, by reason of the same not having been moved in time; provided said motion or application is made in twelve months from the adoption of this constitution.

Seven. The books, papers, and proceedings of the inferior courts shall be transferred to, and remain in, the control of the ordinaries, who shall perform the duties of said courts until otherwise provided by law. The books, papers, and proceedings of the county courts, and the unfinished business thereof, shall be transferred to the superior courts, and the same shall be finished and performed by the said superior courts and the officers thereof, in such cases, and in such cases only, as the said courts are, by this constitution or the laws made in pursuance thereof, granted jurisdiction over the subject-matter or debts on which said cases and judgments, civil or criminal, are founded.

Eight. The cases pending and the judgments had and made in the city courts of Savannah and Augusta, and in the various justices' courts in this State, shall be finished and the judgments performed by the city courts, and officers and justices provided by this constitution in such cases, and such only, as by this constitution jurisdiction is given to said courts and officers over the causes of action on which they are founded.

Nine. The judgments and proceedings of courts and acts of officers within their jurisdiction, as provided by law, shall be valid notwithstanding the judges of said courts or the said officers were appointed by the military authorities of the United States, and any of said judgments, or acts, or proceedings made or done under or by virtue of, or in accordance with, the orders of said military authorities, duly made, are as valid as if done under a law of this State.

Ten. These several acts of confirmation shall not be construed to divest any vested right, nor to make any act criminal otherwise not criminal, but they shall be construed as acts of peace and to prevent injustice: *Provided*, That nothing in this constitution shall be so construed as to make valid any acts done by, or before any such *de facto* officer, which would, by legalizing such acts, render that criminal which was not criminal when done, or cause any act not legally criminal when done to become criminal by giving validity to such act after it was done; but all such acts shall be held by the courts to be null and void.

Eleven. Should this constitution be ratified by the people, and Congress accept the same with any qualifications or conditions, the government herein provided for, and the officers elected shall nevertheless exist and continue in the exercise of their several functions, as the government of this State, so far as the same may be consistent with the action of the United States in the premises.

Twelve. The ordinances of this convention on the subject of the first election, and the first general assembly, shall have the force of laws, until they expire by their own limitation, and all other ordinances of a mere legislative character shall have the force of laws, until otherwise provided by the general assembly.

Article XII

Amendments to the constitution

One. This constitution may be amended by a two-thirds vote of two successive legislatures, and by a submission of the amendment to the qualified voters for final ratification. But the general assembly shall not call a convention of the people in the election of delegates to which any person qualified to vote by this constitution shall be disqualified. And the representation in said convention shall be based on population. Nor shall the right of suffrage ever be taken from any person qualified by this constitution to vote.

Josiah R. Parrott, *President.*

P. M. Sheibley, *Secretary.*

CONSTITUTION OF GEORGIA—1877 [a]

Bill of Rights

Preamble

To perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen, and transmit to posterity the enjoyment of liberty, we, the people of Georgia, relying upon the protection and guidance of Almighty God, do ordain and establish this Constitution:

Article I

Section I

Paragraph I. All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and, at all times, amenable to them.

Par. II. Protection to person and property is the paramount duty of government, and shall be impartial and complete.

Par. III. No person shall be deprived of life, liberty, or property, except by due process of law.

Par. IV. No person shall be deprived of the right to prosecute or defend his own cause in any of the courts of this State, in person, by attorney, or both.

Par. V. Every person charged with an offense against the laws of this State shall have the privilege and benefit of counsel; shall be furnished, on demand, with a copy of the accusation, and a list of the witnesses on whose testimony the charge against him is founded; shall have compulsory process to obtain the testimony of his own witnesses; shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury.

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[a] Journal of the Constitutional Convention of the People of Georgia, Held In The City Of Atlanta In The Months Of July And August, 1877. Atlanta, Georgia. 1877. pp. 575–631.

Par. VI. No person shall be compelled to give testimony tending in any manner to criminate himself.

Par. VII. Neither banishment beyond the limits of the State, nor whipping, as a punishment for crime, shall be allowed.

Par. VIII. No person shall be put in jeopardy of life, or liberty, more than once for the same offense, save on his, or her, own motion for a new trial after conviction, or in case of mistrial.

Par. IX. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; nor shall any person be abused in being arrested, while under arrest, or in prison.

Par. X. No person shall be compelled to pay costs, except after conviction on final trial.

Par. XI. The writ of *Habeas Corpus* shall not be suspended.

Par. XII. All men have the natural and inalienable right to worship God, each according to the dictates of his own conscience, and no human authority should, in any case, control or interfere with such right of conscience.

Par. XIII. No inhabitants of this State shall be molested in person or property, or prohibited from holding any public office, or trust, on account of his religious opinions; but the right of liberty of conscience shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the State.

Par. XIV. No money shall ever be taken from the public Treasury, directly or indirectly, in aid of any church, sect, or denomination of religionists, or of any sectarian institution.

Par. XV. No law shall ever be passed to curtail, or restrain, the liberty of speech, or of the press: any person may speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that liberty.

Par. XVI. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath, or affirmation, particularly describing the place, or places, to be searched, and the persons or things to be seized.

Par. XVII. There shall be within the State of Georgia neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

Par. XVIII. The social status of the citizen shall never be the subject of legislation.

Par. XIX. The civil authority shall be superior to the military, and no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, except by the civil magistrate, in such manner as may be provided by law.

Par. XX. The power of the Courts to punish for contempt, shall be limited by legislative acts.

Par. XXI. There shall be no imprisonment for debt.

Par. XXII. The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.

Par. XXIII. The legislative, judicial and executive powers shall forever remain separate and distinct, and no person discharging the

duties of one, shall, at the same time, exercise the functions of either of the others, except as herein provided.

Par. XXIV. The people have the right to assemble peaceably for their common good and to apply to those vested with the powers of government, for redress or grievances, by petition or remonstrance.

Par. XXV. All citizens of the United States, resident in this State, are hereby declared citizens of this State; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges and immunities due to such citizenship.

Section II

Paragraph I. In all prosecutions or indictments for libel the truth may be given in evidence; and the jury in all criminal cases, shall be the judges of the law and the facts. The power of the Judges to grant new trials in cases of conviction, is preserved.

Par. II. Treason against the State of Georgia, shall consist in levying war against her; adhering to her enemies: giving them aid and comfort. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or confession in open court.

Par. III. No conviction shall work corruption of blood or forfeiture of estate.

Par. IV. All lotteries, and the sale of lottery tickets, are hereby prohibited; and this prohibition shall be enforced by penal laws.

Par. V. Lobbying is declared to be a crime, and the General Assembly shall enforce this provision by suitable penalties.

Par. VI. The General Assembly shall have the power to provide for the punishment of fraud; and shall provide, by law, for reaching property of the debtor concealed from the creditor.

Section III

Paragraph I. In cases of necessity, private ways may be granted upon just compensation being first paid by the applicant. Private property shall not be taken, or damaged, for public purposes, without just and adequate compensation being first paid.

Par. II. No bill of attainder, ex post facto law, retroactive law, or law impairing the obligation of contracts, or making irrevocable grants of special privileges or immunities, shall be passed.

Par. III. No grant of special privileges or immunities shall be revoked, except in such manner as to work no injustice to the corporators or creditors of the incorporation.

Section IV

Paragraph I. Laws of a general nature shall have uniform operation throughout the State, and no special law shall be enacted in any case for which provision has been made by an existing general law. No general law affecting private rights, shall be varied in any particular case, by special legislation, except with the free consent, in writ-

ing, of all persons to be affected thereby; and no person under legal disability to contract, is capable of such consent.

Par. II. Legislative acts in violation of this Constitution, or the Constitution of the United States, are void, and the Judiciary shall so declare them.

SECTION V

Paragraph I. The people of this State have the inherent, sole and exclusive right of regulating their internal government, and the police thereof, and of altering and abolishing their Constitution whenever it may be necessary to their safety and happiness.

Par. II. The enumeration of rights herein contained as a part of this Constitution, shall not be construed to deny to the people any inherent rights which they may have hitherto enjoyed.

ARTICLE II

ELECTIVE FRANCHISE

SECTION I

Paragraph I. In all elections by the people, the electors shall vote by ballot.

Par. II. Every male citizen of the United States, (except as hereinafter provided) twenty-one years of age, who shall have resided in this State one year next preceding the election, and shall have resided six months in the county in which he offers to vote, and shall have paid all taxes which may hereafter be required of him, and which he may have had an opportunity of paying, agreeably to law, except for the year of the election, shall be deemed an elector: Provided, that no soldier, sailor or marine in the military or naval service of the United States, shall acquire the rights of an elector, by reason of being stationed on duty in this State; and no person shall vote who, if challenged, shall refuse to take the following oath, or affirmation: "I do swear (or affirm) that I am twenty-one years of age, have resided in this State one year, and in this county six months, next preceding this election. I have paid all taxes which, since the adoption of the present Constitution of this State, have been required of me previous to this year, and which I have had an opportunity to pay, and I have not voted at this election."

SECTION II

Paragraph I. The General Assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote or hold any office, or appointment of honor or trust in this State, to-wit: 1st. Those who shall have been convicted, in any court of competent jurisdiction, of treason against the State, of embezzlement of public funds, malfeasance in office, bribery or larceny, or of any crime involving moral turpitude, punishable by the laws of this State with imprisonment in the penitentiary, unless such person shall have been pardoned. 2d. Idiots and insane persons.

SECTION III

Paragraph I. Electors shall, in all cases, except for treason, felony, larceny, and breach of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from the same.

SECTION IV

Paragraph I. No person who is the holder of any public money, contrary to law, shall be eligible to any office in this State, until the same is accounted for and paid into the Treasury.

Par. II. No person who, after the adoption of this Constitution, being a resident of this State, shall have been convicted of fighting a duel in this State, or convicted of sending, or accepting a challenge, or convicted of aiding, or abetting such duel, shall hold office in this State, unless he shall have been pardoned; and every such person shall, also, be subject to such punishment as may be prescribed by law.

SECTION V

Paragraph I. The General Assembly shall, by law, forbid the sale, distribution, or furnishing of intoxicating drinks within two miles of election precincts, on days of election—State, county or municipal—and prescribe punishment for any violation of the same.

SECTION VI

Paragraph I. Returns of election for all civil officers elected by the people, who are to be commissioned by the Governor, and, also, for the members of the General Assembly, shall be made to the Secretary of State, unless otherwise provided by law.

ARTICLE III

LEGISLATIVE DEPARTMENT

SECTION I

Paragraph I. The legislative power of the State shall be vested in a General Assembly which shall consist of a Senate and House of Representatives.

SECTION II

Paragraph I. The Senate shall consist of forty-four members. There shall be forty-four Senatorial Districts, as now arranged by counties. Each District shall have one Senator.

Par. II. The First Senatorial District shall be composed of the counties of Chatham, Bryan and Effingham.

The Second Senatorial District shall be composed of the counties of Liberty, Tatnall and McIntosh.

The Third Senatorial District shall be composed of the counties of Wayne, Pierce and Appling.

The Fourth Senatorial District shall be composed of the counties of Glynn, Camden, and Charlton.

The Fifth Senatorial District shall be composed of the counties of Coffee, Ware, and Clinch.

The Sixth Senatorial District shall be composed of the counties of Echols, Lowndes, and Berrien.

The Seventh Senatorial District shall be composed of the counties of Brooks, Thomas, and Colquitt.

The Eighth Senatorial District shall be composed of the counties of Decatur, Mitchell and Miller.

The Ninth Senatorial District shall be composed of the counties of Early, Calhoun and Baker.

The Tenth Senatorial District shall be composed of the counties of Dougherty, Lee and Worth.

The Eleventh Senatorial District shall be composed of the counties of Clay, Randolph and Terrell.

The Twelfth Senatorial District shall be composed of the counties of Stewart, Webster and Quitman.

The Thirteenth Senatorial District shall be composed of the counties of Sumter, Schley and Macon.

The Fourteenth Senatorial District shall be composed of the counties of Dooly, Wilcox, Pulaski and Dodge.

The Fifteenth Senatorial District shall be composed of the counties of Montgomery, Telfair and Irwin.

The Sixteenth Senatorial District shall be composed of the counties of Laurens, Emanuel and Johnson.

The Seventeenth Senatorial District shall be composed of the counties of Screven, Bulloch and Burke.

The Eighteenth Senatorial District shall be composed of the counties of Richmond, Glasscock and Jefferson.

The Nineteenth Senatorial District shall be composed of the counties of Taliaferro, Greene and Warren.

The Twentieth Senatorial District shall be composed of the counties of Baldwin, Hancock and Washington.

The Twenty-first Senatorial District shall be composed of the counties of Twiggs, Wilkinson and Jones.

The Twenty-second Senatorial District shall be composed of the counties of Bibb, Monroe and Pike.

The Twenty-third Senatorial District shall be composed of the counties of Houston, Crawford and Taylor.

The Twenty-fourth Senatorial District shall be composed of the counties of Muscogee, Marion and Chattahoochee.

The Twenty-fifth Senatorial District shall be composed of the counties of Harris, Upson and Talbot.

The Twenty-sixth Senatorial District shall be composed of the counties of Spalding, Butts and Fayette.

The Twenty-seventh Senatorial District shall be composed of the counties of Newton, Walton, Clarke, Oconee and Rockdale.

The Twenty-eighth Senatorial District shall be composed of the counties of Jasper, Putnam and Morgan.

The Twenty-ninth Senatorial District shall be composed of the counties of Wilkes, Columbia, Lincoln and McDuffie.

The Thirtieth Senatorial District shall be composed of the counties of Oglethorpe, Madison and Elbert.

The thirty-first Senatorial District shall be composed of the counties of Hart, Habersham and Franklin.

The Thirty-Second Senatorial District shall be composed of the counties of White, Dawson and Lumpkin.

The Thirty-third Senatorial District shall be composed of the counties of Hall, Banks and Jackson.

The Thirty-fourth Senatorial District shall be composed of the counties of Gwinnett, DeKalb and Henry.

The Thirty-fifth Senatorial District shall be composed of the counties of Clayton, Cobb and Fulton.

The Thirty-sixth Senatorial District shall be composed of the counties of Campbell, Coweta, Meriwether, Douglass.

The Thirty-seventh Senatorial District shall be composed of the counties of Carroll, Heard and Troup.

The Thirty-eighth Senatorial District shall be composed of the counties of Haralson, Polk and Paulding.

The Thirty-ninth Senatorial District shall be composed of the counties of Milton, Cherokee and Forsyth.

The Fortieth Senatorial District shall be composed of the counties of Union, Towns and Rabun.

The Forty-first Senatorial District shall be composed of the counties of Pickens, Fannin and Gilmer.

The Forty-second Senatorial District shall be composed of the counties of Bartow, Floyd and Chattooga.

The Forty-third Senatorial District shall be composed of the counties of Murray, Gordon and Whitfield.

The Forty-fourth Senatorial District shall be composed of the counties of Walker, Dade and Catoosa.

Par. III. The General Assembly may change these districts after each census of the United States: Provided, That neither the number of Districts nor the number of Senators from each District shall be increased.

SECTION III

Paragraph I. The House of Representatives shall consist of one hundred and seventy-five Representatives, apportioned among the several counties as follows, to-wit: To the six counties having the largest pouplation, viz: Chatham, Richmond, Burke, Houston, Bibb and Fulton, three Representatives, each: to the twenty-six counties having the next largest population, viz: Bartow, Coweta, Decatur, Floyd, Greene, Gwinnett, Harris, Jefferson, Meriwether, Monroe, Muscogee, Newton, Stewart, Sumter, Thomas, Troup, Washington, Hancock, Carroll, Cobb, Jackson, Dougherty, Oglethorpe, Macon, Talbot and Wilkes, two Representatives, each: and to the remaining one hundred and five counties, one Representative each.

Par. II. The above apportionment shall be changed by the General Assembly at its first session after each census taken by the United States Government, so as to give to the six counties having the largest population three Representatives, each; and to the twenty-six counties having the next largest population two Representatives, each; but in no event shall the aggregate number of Representatives be increased.

SECTION IV

Paragraph I. The members of the General Assembly shall be elected for two years, and shall serve until their successors are elected.

Par. II. The first election for members of the General Assembly, under this Constitution, shall take place on the first Wednesday in

December, 1877, the second election for the same shall be held on the first Wednesday in October 1880, and subsequent elections biennially, on that day, until the day of election is changed by law.

Par. III. The first meeting of the General Assembly, after the ratification of this Constitution, shall be on the first Wednesday in November, 1878, and biennially thereafter, on the same day, until the day shall be changed by law. But nothing herein contained shall be construed to prevent the Governor from calling an extra session of the General Assembly before the first Wednesday in November, 1878, if, in his opinion, the public good shall require it.

Par. IV. A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day and compel the presence of its absent members, as each house may provide.

Par. V. Each Senator and Representative, before taking his seat, shall take the following oath, or affirmation, to-wit: "I will support the Constitution of this State, and of the United States, and on all questions and measures which may come before me, I will so conduct myself, as will, in my judgment, be most conducive to the interests and prosperity of this State."

Par. VI. No session of the General Assembly shall continue longer than forty days, unless by a two-thirds vote of the whole number of each house.

Par. VII. No person holding a military commission, or other appointment, or office, having any emolument, or compensation annexed thereto, under this State, or the United States, or either of them, except Justices of the Peace and officers of the militia, nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either house; nor shall any Senator, or Representative, after his qualification as such, be elected by the General Assembly, or appointed by the Governor, either with or without the advice and consent of the Senate, to any office or appointment having any emolument annexed thereto during the time for which he shall have been elected.

Par. VIII. The seat of a member of either house shall be vacated on his removal from the district or county from which he was elected.

Section V

Paragraph I. The Senators shall be citizens of the United States, who have attained the age of twenty-five years, and who shall have been citizens of this State for four years, and for one year residents of the district from which elected.

Par. II. The presiding officer of the Senate shall be styled the President of the Senate, and shall be elected viva voce from the Senators.

Par. III. The Senate shall have the sole power to try impeachments.

Par. IV. When sitting for that purpose, the members shall be on oath, or affirmation, and shall be presided over by the Chief Justice, or the presiding Justice of the Supreme Court. Should the Chief Justice be disqualified the Senate shall select the Judge of the Supreme Court to preside. No person shall be convicted without the concurrence of two-thirds of the members present.

Par. V. Judgments, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, within this State; but the party convicted shall, nevertheless, be liable, and subject, to indictment, trial, judgment, and punishment, according to law.

Section VI

Paragraph I. The Representatives shall be citizens of the United States who have attained the age of twenty-one years, and who shall have been citizens of this State for two years, and for one year residents of the counties from which elected.

Par. II. The presiding officer of the House of Representatives shall be styled the Speaker of the House of Representatives, and shall be elected viva voce from the body.

Par. III. The House of Representatives shall have the sole power to impeach all persons who shall have been, or may be, in office.

Section VII

Paragraph I. Each House shall be the judge of the election, returns and qualifications of its members, and shall have power to punish them for disorderly behavior, or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled, except by a vote of two-thrids of the House to which he belongs.

Par. II. Each House may punish by imprisonment, not extending beyond the session, any person, not a member, who shall be guilty of a contempt, by any disorderly behavior in its presence, or who shall rescue, or attempt to rescue, any person arrested by order of either House.

Par. III. The members of both Houses shall be free from arrest during their attendance on the General Assembly and in going thereto or returning therefrom, except for treason, felony, larceny, or breach of the peace; and no member shall be liable to answer in any other place for anything spoken in debate in either House.

Par. IV. Each House shall keep a journal of its proceedings, and publish it immediately after its adjournment.

Par. V. The original journal shall be preserved, after publication, in the office of Secretary of State, but there shall be no other record thereof.

Par. VI. The yeas and nays on any question shall, at the desire of one-fifth of the members present, be entered on the journal.

Par. VII. Every bill, before it shall pass, shall be read three times, and on three separate days, in each House, unless in case of actual invasion or insurrection.

Par. VIII. No law or ordinance shall pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Par. IX. The general appropriation bill shall embrace nothing except appropriations fixed by previous laws, the ordinary expenses of the Executive, Legislative and Judicial Departments of the Government, payment of the public debt and interest thereon, and the support of the public institutions and educational interests of the

State. All other appropriations shall be made by separate bills, each embracing but one subject.

Par. X. All bills for raising revenue or appropriating money shall originate in the House of Representatives, but the Senate may propose or concur in amendments as in other bills.

Par. XI. No money shall be drawn from the treasury except by appropriation made by law, and a regular statement and account of the receipt and expenditure of all public money shall be published every three months, and also with the laws passed by each session of the General Assembly.

Par. XII. No bill or resolution appropriating money shall become a law, unless, upon its passage, the yeas and nays, in each House, are recorded.

Par. XIII. All Acts shall be signed by the President of the Senate and the Speaker of the House of Representatives, and no bill, ordinance or resolution, intended to have the effect of a law, which shall have been rejected by either House, shall be again proposed during the same session, under the same or any other title, without the consent of two-thirds of the House by which the same was rejected.

Par. XIV. No bill shall become a law unless it shall receive a majority of the votes of all the members elected to each House of the General Assembly, and it shall, in every instance, so appear on the journal.

Par. XV. All special or local bills shall originate in the House of Representatives. The Speaker of the House of Representatives shall, within five days from the organization of the General Assembly, appoint a committee consisting of one from each Congressional District, whose duty it shall be to consider and consolidate all special and local bills, on the same subject, and report the same to the House; and no special or local bill shall be read or considered by the House until the same has been reported by said committee, unless by a two-thirds' vote. And no bill shall be considered or reported to the House, by said committee, unless the same shall have been laid before it within fifteen days after the organization of the General Assembly, except by a two-thirds' vote.

Par. XVI. No local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter, or thing to be affected, may be situated, which notice shall be given at least thirty days prior to the introduction of such bill into the General Assembly, and in the manner to be prescribedby law. The evidence of such notice having been published shall be exhibited in the General Assembly before such Act shall be passed.

Par. XVII. No law, or section of the Code, shall be amended or repealed by mere reference to its title, or to the number of the section of the Code, but the amending or repealing Act shall distinctly describe the law to be amended or repealed, as well as the alteration to be made.

Par. XVIII. The General Assembly shall have no power to grant corporate powers and privileges to private companies, except banking, insurance, railroad, canal, navigation, express and telegraph companies; nor to make or change election precincts; nor to establish bridges or ferries; nor to change names of legitimate children; but

it shall prescribe by law the manner in which such powers shall be exercised by the Courts.

Par. XIX. The General Assembly shall have no power to relieve principals or securities upon forfeited recognizances, from the payment thereof, either before or after judgment thereon, unless the principal in the recognizance shall have been apprehended and placed in the custody of the proper officer.

Par. XX. The General Assembly shall not authorize the construction of any street passenger railway within the limits of any incorporated town or city without the consent of the corporate authorities.

Par. XXI. Whenever the Constitution requires a vote of two-thirds of either or both Houses for the passage of an Act or resolution, the yeas and nays on the passage thereof shall be entered on the journal.

Par. XXII. The General Assembly shall have power to make all laws and ordinances consistent with this Constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Par. XXIII. No provision in this Constitution, for a two-thirds vote of both Houses of the General Assembly, shall be construed to waive the necessity for the signature of the Governor, as in any other case, except in the case of the two-thirds vote required to override the veto, and in case of prolongation of a session of the General Assembly.

Par. XXIV. Neither House shall adjourn for more than three days, or to any other place, without the consent of the other; and in case of a disagreement between the two Houses on a question of adjournment, the Governor may adjourn either or both of them.

Section VIII

Paragraph I. The officers of the two Houses, other than the President and Speaker, shall be a Secretary of the Senate and Clerk of the House of Representatives, and such assistants as they may appoint; but the clerical expenses of the Senate shall not exceed sixty dollars per day for each session, nor those of the House of Representatives seventy dollars per day for each session. The Secretary of the Senate and Clerk of the House of Representatives shall be required to give bond and security for the faithful discharge of their respective duties.

Section IX

Paragraph I. The per diem of members of the General Assembly shall not exceed four dollars, and mileage shall not exceed ten cents for each mile traveled, by the nearest practicable route, in going to and returning from the Capital; but the President of the Senate and the Speaker of the House of Representatives shall each receive not exceeding seven dollars per day.

Section X

Paragraph I. All elections by the General Assembly shall be *viva voce*, and the vote shall appear on the journal of the House of Repre-

sentatives. When the Senate and House of Representatives unite for the purpose of elections, they shall meet in the Representative Hall, and the President of the Senate shall, in such cases, preside and declare the result.

SECTION XI

Paragraph I. All property of the wife at the time of her marriage, and all property given to, inherited or acquired by her, shall remain her separate property, and not be liable for the debts of her husband.

SECTION XII

Paragraph I. All life insurance companies now doing business in this State, or which may desire to establish agencies and do business in the State of Georgia, chartered by other States of the Union, or foreign States, shall show that they have deposited with the Comptroller-General of the State in which they are chartered, or of this State, the Insurance Commissioners, or such other officer as may be authorized to receive it, not less than one hundred thousand dollars, in such securities as may be deemed by such officer equivalent to cash, subject to his order, as a guarantee fund for the security of policy-holders.

Par. II. When such showing is made to the Comptroller-General of the State of Georgia by a proper certificate from the State official having charge of the funds so deposited, the Comptroller-General of the State of Georgia is authorized to issue to the company making such showing a license to do business in the State, upon paying the fees required by law.

Par. III. All life insurance companies chartered by the State of Georgia, or which may hereafter be chartered by the State, shall, before doing business, deposit with the Comptroller-General of the State of Georgia, or with some strong corporation, which may be approved by said Comptroller-General, one hundred thousand dollars, in such securities as may be deemed by him equivalent to cash, to be subject to his order, as a guarantee fund for the security of the policy-holders of the company making such deposit, all interests and dividends arising from such securities to be paid, when due, to the company so depositing. Any such securities as may be needed or desired by the company may be taken from said Department at any time by replacing them with other securities equally acceptable to the Comptroller-General, whose certificate for the same shall be furnished to the company.

Par. IV. The General Assembly shall, from time to time, enact laws to compel all fire insurance companies doing business in this State, whether chartered by this State or otherwise, to deposit reasonable securities with the Treasurer of this State, to secure the people against loss by the operations of said companies.

Par. V. The General Assembly shall compel all insurance companies in this State, or doing business therein, under proper penalties, to make semi-annual reports to the Governor, and print the same, at their own expense, for the information and protection of the people.

Article IV

Power of the General Assembly over Taxation

Section I

Paragraph I. The right of taxation is a sovereign right, inalienable, indestructible, is the life of the State, and rightfully belongs to the people in all Republican governments, and neither the General Assembly, nor any, nor all other departments of the Government established by this Constitution, shall ever have the authority to irrevocably give, grant, limit, or restrain this right; and all laws, grants, contracts, and all other acts whatsoever, by said Government, or any department thereof, to effect any of these purposes, shall be, and are hereby, declared to be null and void for every purpose whatsoever; and said right of taxtion shall always be under the complete control of, and revocable by the State, notwithstanding any gift, grant, or contract whatsoever by the General Assembly.

Section II

Paragraph I. The power and authority of regulating railroad freights and passenger tariffs, preventing unjust discriminations, and requiring reasonoble and just rates of freight and passenger tariffs, are hereby conferred upon the General Assembly, whose duty it shall be to pass laws, from time to time, to regulate freight and passenger tariffs, to prohibit unjust discriminations on the various railroads of this State, and to prohibit said roads from charging other than just and reasonable rates, and enforce the same by adequate penalties.

Par. II. The exercise of the right of eminent domain shall never be abridged, nor so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as property of individuals; and the exercise of the police power of the State shall never be abridged, nor so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals, or to the general well-being of the State.

Par. III. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of said corporation, except upon the condition that said corporation shall thereafter hold its charter subject to the provisions of this Constitution; and every amendment of any charter of any corporation in this State, or any special law for its benefit, accepted thereby, shall operate as a novation of said charter and shall bring the same under the provisions of this Constitution: Provided, that this section shall not extend to any amendment for the purpose of allowing any existing road to take stock in or aid in the building of any branch road.

Par. IV. The General Assembly of this State shall have no power to authorize any corporation to buy shares, or stock, in any other corporation in this State, or elsewhere, or to make any contract, or agreement whatever, with any such corporation, which may have the

effect, or be intended to have the effect, to defeat or lessen competition in their respective businesses, or to encourage monopoly; and all such contracts and agreements shall be illegal and void.

Par. V. No railroad company shall give, or pay, any rebate, or *bonus* in the nature thereof, directly or indirectly, or do any act to mislead or deceive the public as to the real rates charged or received for freights or passage; and any such payments shall be illegal and void, and these prohibitions shall be enforced by suitable penalties.

Par. VI. No provision of this article shall be deemed, held or taken to impair the obligation of any contract heretofore made by the State of Georgia.

Par. VII. The General Assembly shall enforce the provisions of this article by appropriate legislation.

Article V

Executive Department

Section I

Paragraph I. The officers of the Executive Department shall consist of a Governor, Secretary of State, Comptroller-General and Treasurer.

Par. II. The Executive power shall be vested in a Governor, who shall hold his office during the term of two years, and until his successor shall be chosen and qualified. He shall not be eligible to reelection, after the expiration of a second term, for the period of four years. He shall have a salary of three thousand dollars per annum (until otherwise provided by a law passed by a two-thirds' vote of both branches of the General Assembly), which shall not be increased or diminished during the period for which he shall have been elected; nor shall he receive, within that time, any other emolument from the United States, or either of them, or from any foreign power. But this reduction of salary shall not apply to the present term of the present Governor.

Par. III. The first election for Governor, under this Constitution, shall be held on the first Wednesday in October, 1880, and the Governor-elect shall be installed in office at the next session of the General Assembly. An election shall take place biennially thereafter on said day, until another date be fixed by the General Assembly. Said election shall be held at the places of holding general elections in the several counties of this State, in the manner prescribed for the election of members of the General Assembly, and the electors shall be the same.

Par. IV. The returns for every election of Governor shall be sealed up by the managers, separately from other returns, and directed to the President of the Senate and Speaker of the House of Representatives, and transmitted to the Secretary of State, who shall, without opening said returns, cause the same to be laid before the Senate on the day after the two Houses shall have been organized, and they shall be transmitted by the Senate to the House of Representatives.

Par. V. The members of each branch of the General Assembly shall convene in the Representative Hall, and the President of the Senate

and Speaker of the House of Representatives shall open and publish the returns in the presence and under the direction of the General Assembly; and the person having the majority of the whole number of votes shall be declared duly elected Governor of this State; but if no person shall have such majority, then from the two persons having the highest number of votes who shall be in life, and shall not decline an election at the time appointed by the General Assembly to elect, the General Assembly shall immediately elect a Governor viva voce; and in all cases of election of a Governor by the General Assembly a majority of the members present shall be necessary to a choice.

Par. VI. Contested elections shall be determined by both Houses of the General Assembly in such manner as shall be prescribed by law.

Par. VII. No person shall be eligible to the office of Governor who shall not have been a citizen of the United States fifteen years, and a citizens of the State six years, and who shall not have attained the age of thirty years.

Par. VIII. In case of the death, resignation or disability of the Governor, the President of the Senate shall exercise the Executive powers of the government until such disability be removed, or a successor is elected and qualified. And in case of the death, resignation or disability of the President of the Senate, the Speaker of the House of Representatives shall exercise the Executive powers of the government until the removal of the disability, or the election and qualification of a Governor.

Par. IX. The General Assembly shall have power to provide by law for filling unexpired terms by special elections.

Par. X. The Governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will faithfully execute the office of Governor of the State of Georgia, and will, to the best of my ability, preserve, protect and defend the Constitution thereof, and the Constitution of the United States of America."

Par. XI. The Governor shall be Commander-in-Chief of the army and navy of this State, and of the militia thereof.

Par. XII. He shall have power to grant reprieves and pardons, to commute penalties, remove disabilities imposed by law, and to remit any part of a sentence for offences against the State, after conviction, except in cases of treason and impeachment, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason he may suspend the execution of the sentence and report the case to the General Assembly at the next meeting thereof, when the General Assembly shall either pardon, commute the sentence, direct its execution or grant a further reprieve. He shall, at each session of the General Assembly, communicate to that body each case of reprieve, pardon or commutation granted, stating the name of the convict, the offense for which he was convicted, the sentence and its date, the date of the reprieve, pardon or commutation, and the reasons for granting the same. He shall take care that the laws are faithfully executed, and shall be a conservator of the peace throughout the State.

Par. XIII. He shall issue writs of election to fill all vacancies that may happen in the Senate or House of Representatives, and shall give

the General Assembly, from time to time, information of the state of the commonwealth, and recommend to their consideration such measures as he may deem necessary or expedient. He shall have power to convoke the General Assembly on extraordinary occasions, but no law shall be enacted at call sessions of the General Assembly except such as shall relate to the object stated in his proclamation convening them.

Par. XIV. When any office shall become vacant, by death, resignation or otherwise, the Governor shall have power to fill such vacancy, unless otherwise provided by law; and persons so appointed shall continue in office until a successor is commissioned, agreeably to the mode pointed out in the Constitution, or by law in pursuance thereof.

Par. XV. A person once rejected by the Senate shall not be reappointed by the Governor to the same office during the same session of the recess thereafter.

Par. XVI. The Governor shall have the revision of all bills passed by the General Assembly, before the same shall become laws, but two-thirds of each House may pass a law, notwithstanding his dissent: and if any bill shall not be returned by the Governor within five days (Sunday excepted) after it has been presented to him, the same shall be a law, unless the General Assembly, by their adjournment, shall prevent its return. He may approve any appropriation, and disapprove any other appropriation, in the same bill, and the latter shall not be effectual, unless passed by two-thirds of each House.

Par. XVII. Every vote, resolution or order, to which the concurrence of both Houses may be necessary, except on a question of election or adjournment, shall be presented to the Governor, and before it shall take effect be approved by him, or, being disapproved, shall be re-passed by two-thirds of each House.

Par. XVIII. He may require information, in writing, from the officers in the Executive Department on any subject relating to the duties of their respective offices. It shall be the duty of the Governor, quarterly, and oftener if he deems it expedient, to examine, under oath, the Treasurer and Comptroller-General of the State on all matters pertaining to their respective offices, and to inspect and review their books and accounts. The General Assembly shall have authority to provide by law for the suspension of either of said officers from the discharge of the duties of his office, and also for the appointment of a suitable person to discharge the duties of the same.

Par. XIX. The Governor shall have power to appoint his own Secretaries, not exceeding two in number, and to provide such other clerical force as may be required in his office, but the total cost for Secretaries and clerical force in his office shall not exceed six thousand dollars per annum.

SECTION II

Paragraph I. The Secretary of State, Comptroller-General and Treasurer shall be elected by the persons qualified to vote for members of the General Assembly, at the same time and in the same manner as the Governor. The provision of the Constitution as to the transmission of the returns of election, counting the votes, declaring the result, deciding when there is no election, and when there is a contested election, applicable to the election of Governor, shall apply to the election of Secretary of State, Comptroller-General and

Treasurer; they shall be commissioned by the Governor and hold their office for the same time as the Governor.

Par. II. The salary of the Treasurer shall not exceed two thousand dollars per annum. The clerical expenses of his department shall not exceed sixteen hundred dollars per annum.

Par. III. The salary of the Secretary of State shall not exceed two thousand dollars per annum, and the clerical expenses of his department shall not exceed one thousand dollars per annum.

Par. IV. The salary of the Comptroller-General shall not exceed two thousand dollars per annum. The clerical expenses of his department, including the Insurance Department and Wild Land Clerk, shall not exceed four thousand dollars per annum; and without said clerk, it shall not exceed three thousand dollars per annum.

Par. V. The Treasurer shall not be allowed directly or indirectly, to receive any fee, interest or reward from any person, bank or corporation for the deposit or use, in any manner, of the public funds; and the General Assembly shall enforce this provision by suitable penalties.

Par. VI. No person shall be eligible to the office of Secretary of State, Comptroller-General, or Treasurer, unless he shall have been a citizen of the United States for ten years, and shall have resided in this State for six years next preceding his election, and shall be twenty-five years of age when elected. All of said officers shall give bond and security, under regulations to be prescribed by law, for the faithful discharge of their duties.

Par. VII. The Secretary of State, the Comptroller-General and the Treasurer shall not be allowed any fee, perquisite or compensation other than their salaries, as prescribed by law, except their necessary expenses when absent from the seat of government on business for the State.

Section III

Paragraph I. The Great Seal of the State shall be deposited in the office of the Secretary of State, and shall not be affixed to any instrument of writing except by order of the Governor, or General Assembly, and that now in use shall be the Great Seal of the State until otherwise provided by law.

Article VI

Judiciary

Section I

Paragraph I. The judicial powers of this State shall be vested in a Supreme Court, Superior Courts, Courts of Ordinary, Justice of the Peace, commissioned Notaries Public, and other Courts, as have been or may be established by law.

Section II

Paragraph I. The Supreme Court shall consist of a Chief Justice and two Associate Justices. A majority of the Court shall constitute a quorum.

Par. II. When one or more of the Judges are disqualified from deciding any case, by interest or otherwise, the Governor shall designate a Judge, or Judges, of the Superior Courts to preside in said case.

Par. III. No Judge of any Court shall preside in any case where the validity of any bond—Federal, State, corporation or municipal—is involved, who holds in his own right, or as the representative of others, any material interest in the class of bonds upon which the question to be decided arises.

Par. IV. The Chief Justice and Associate Justices shall hold their offices for six years, and until their successors are qualified. A successor to the incumbent whose term will soonest expire shall be elected by the General Assembly in 1880; a successor to the incumbent whose term of office is next in duration shall be elected by the General Assembly in 1882; and a successor to the third incumbent shall be elected by the General Assembly in 1884; but appointments to fill vacancies shall only be for the unexpired term, or until such vacancies are filled by elections, agreeably to the mode pointed out by this Constitution.

Par. V. The Supreme Court shall have no original jurisdiction, but shall be a Court alone for the trial and correction of errors from the Superior Courts, and from the City Courts of Atlanta and Savannah, and such other like Court as may be hereafter established in other cities; and shall sit at the seat of government, at such times in each year as shall be prescribed by law, for the trial and determination of writs of error from said Superior and City Courts.

Par. VI. The Supreme Court shall dispose of every case at the first or second term after such writ of error is brought; and in case the plaintiff in error shall not be prepared at the first term to prosecute the case—unless prevented by providential cause—it shall be stricken from the docket, and the judgment below shall stand affirmed.

Par. VII. In any case the Court may, in its discretion, withhold its judgment until the next term after the same is argued.

Section III

Paragraph I. There shall be a Judge of the Superior Court for each Judicial Circuit, whose term of office shall be four years, and until his successor is qualified. He may act in other circuits when authorized by law.

Par. II. The successors to the present incumbents shall be elected by the General Assembly as follows: To the half (as near as may be) whose commissions are the oldest, in the year 1878; and to the others in the year 1880. All subsequent elections shall be at the session of the General Assembly next preceding the expiration of the terms of incumbents, except elections to fill vacancies. The day of election may be fixed by the General Assembly.

Par. III. The terms of the Judges to be elected under the Constitution (except to fill vacancies) shall begin on the first day of January, after their elections. But if the time for the meeting of the General Assembly shall be changed, the General Assembly may change the time when the terms of Judges thereafter elected shall begin.

SECTION IV

Paragraph I. The Superior Courts shall have exclusive jurisdiction in cases of divorce; in criminal cases where the offender is subjected to loss of life, or confinement in the penitentiary; in cases respecting titles to land, and equity cases.

Par. II. The General Assembly may confer upon the Courts of common law all the powers heretofore exercised by Courts of Equity in this State.

Par. III. Said Courts shall have jurisdiction in all civil cases, except as hereinafter provided.

Par. IV. They shall have appellate jurisdiction in all such cases as may be provided by law.

Par. V. They shall have power to correct errors in inferior judicatories by writ of certiorai, which shall only issue on the sanction of the Judge; and said Courts and the Judges thereof shall have power to issue writs of mandamus, prohibition, scire facias, and all other writs that may be necessary for carrying their powers fully into effect, and shall have such other powers as are or may be conferred on them by law.

Par. VI. The General Assembly may provide for an appeal from one jury, in the Superior and City Courts to another, and the said Court may grant new trials on legal grounds.

Par. VII. The Court shall render judgment without the verdict of a jury, in all civil cases founded on unconditional contracts in writing, where an issuable defense is not filed under oath or affirmation.

Par. VIII. The Superior Courts shall sit in each county not less than twice in each year at such times as have been or may be appointed by law.

Par. IX. The General Assembly may provide by law for the appointment of some proper person to preside in cases where the presiding Judge is, from any cause, disqualified.

SECTION V

Paragraph I. In any county within which there is, or hereafter may be, a City Court, the Judge of said Court, and of the Superior Court, may preside in the Courts of each other in cases where the Judge of either Court is disqualified to preside.

SECTION VI

Paragraph I. The powers of a Court of Ordinary and of Probate, shall be vested in an Ordinary for each county, from whose decision there may be an appeal (or, by consent of parties, without a decision) to the Superior Court, under regulations prescribed by law.

Par. II. The Courts of Ordinary shall have such powers in relation to roads, bridges, ferries, public buildings, paupers, county officers, county funds, county taxes, and other county matters as may be conferred on them by law.

Par. III. The Ordinary shall hold his office for the term of four years, and until his successor is elected and qualified.

SECTION VII

Paragraph I. There shall be in each militia district one Justice of the Peace, whose official term, except when elected to fill an unexpired term, shall be four years.

Par. II. Justices of the Peace, shall have jurisdiction in all civil cases, arising ex contractu, and in cases of injury or damage to personal property, when the principal sum does not exceed one hundred dollars, and shall sit monthly at fixed times and places; but in all cases there may be an appeal to a jury in said Court, or an appeal to the Superior Court, under such regulations as may be prescribed by law.

Par. III. Justices of the Peace shall be elected by the legal voters in their respective districts, and shall be commissioned by the Governor. They shall be removable on conviction for malpractice in office.

SECTION VIII

Paragraph I. Commissioned Notaries Public, not to exceed one for each militia district, may be appointed by the Judges of the Superior Courts, in their respective circuits, upon recommendation of the grand juries of the several counties. They shall be commissioned by the Governor for the term of four years, and shall be *ex officio* Justices of the Peace, and shall be removable on conviction for malpractice in office.

SECTION IX

Paragraph I. The jurisdiction, powers, proceedings and practice of all Courts or officers invested with judicial powers (except City Courts), of the same grade or class, so far as regulated by law, and the force and effect of the process, judgment and decree, by such Courts, severally, shall be uniform. This uniformity must be established by the General Assembly.

SECTION X

Paragraph I. There shall be an Attorney-General of this State, who shall be elected by the people at the same time, for the same term and in the same manner as the Governor.

Par. II. It shall be the duty of the Attorney-General to act as the legal adviser of the Executive Department, to represent the State in the Supreme Court in all capital felonies; and in all civil and criminal cases in any Court when required by the Governor, and to perform such other services as shall be required of him by law.

SECTION XI

Paragraph I. There shall be a Solicitor-General for each judicial circuit, whose official term, except when commissioned to fill an unexpired term, shall be four years.

Par. II. It shall be the duty of the Solicitor-General to represent the State in all cases in the Superior Courts of his circuit, and in all cases taken up from his circuit to the Supreme Court, and to perform such other services as shall be required of him by law.

SECTION XII

Paragraph I. The Judges of the Supreme and Superior Courts and Solicitor-General shall be elected by the General Assembly, in joint session, on such day or days as shall be fixed by joint resolution of both Houses. At the session of the General Assembly which is held next before the expiration of the terms of the present incumbents, as provided in this Constitution, their successors shall be chosen; and the same shall apply to the election of those who shall succeed them. Vacancies occasioned by death, resignation or other cause shall be filled by appointment of the Governor, until the General Assembly shall convene, when an election shall be held to fill the unexpired portion of the vacant terms.

SECTION XIII

Paragraph I. The Judges of the Supreme Court shall have, out of the Treasury of the State, salaries not to exceed three thousand dollars per annum; the Judges of the Superior Courts shall have salaries not to exceed two thousand dollars per annum; the Attorney-General shall have a salary not to exceed two thousand dollars per annum; and the Solicitors-General shall each have salaries not to exceed two hundred and fifty dollars per annum; but the Attorney-General shall not have any fee or perquisite in any cases arising after the adoption of this Constitution; but the provisions of this section shall not affect the salaries of those now in office.

Par. II. The General Assembly may, at any time, by a two-thirds vote for each branch, prescribe other and different salaries for any or all, of the above officers, but no such change shall affect the officers then in commission.

SECTION XIV

Paragraph I. No person shall be Judge of the Supreme or Superior Courts, or Attorney-General, unless, at the time of his election he shall have attained the age of thirty years, and shall have been a citizen of the State three years, and have practiced law for seven years; and no person shall be hereafter elected Solicitor-General, unless, at the time of his election, he shall have attained twenty-five years of age, shall have been a citizen of the State for three years, and shall have practiced law for three years next preceding his election.

SECTION XV

Paragraph I. No total divorce shall be granted, except on the concurrent verdicts of two juries at different terms of the Court.

SECTION XVI

Paragraph I. Divorce cases shall be brought in the county, where the defendant resides, if a resident of this State; if the defendant be not a resident of this State, then in the county in which the plaintiff resides.

Par. II. Cases respecting titles to land shall be tried in the county where the land lies, except where a single tract is divided by a county line, in which case the Superior Court of either county shall have jurisdiction.

Par. III. Equity cases shall be tried in the county where a defendant resides against whom substantial relief is prayed.

Par. IV. Suits against joint obligors, joint promisors, co-partners, or joint trespassers, residing in different counties, may be tried in either county.

Par. V. Suits against the maker and indorser of promissory notes, or drawer, acceptor and indorser of foreign or inland bills of exchange, or like instruments, residing in different counties, shall be brought in the county where the maker or acceptor resides.

Par. VI. All other civil cases shall be tried in the county where the defendant resides, and all criminal cases shall be tried in the county where the crime was committed, except cases in the Superior Courts where the Judge is satisfied that an impartial jury cannot be obtained in such county.

SECTION XVII

Paragraph I. The power to change the venue in civil and criminal cases shall be vested in the Superior Courts, to be exercised in such manner as has been, or shall be, provided by law.

SECTION XVIII

Paragraph I. The right of trial by jury, except where it is otherwise provided in this Constitution, shall remain inviolate, but the General Assembly may prescribe any number, not less than five, to constitute a trial or traverse jury in Courts other than the Superior and City Courts.

Par. II. The General Assembly shall provide by law for the selection of the most experienced, intelligent and upright men to serve as grand jurors, and intelligent and upright men to serve as traverse jurors. Nevertheless, the grand jurors shall be competent to serve as traverse jurors.

Par. III. It shall be the duty of the General Assembly, by general laws, to prescribe the manner of fixing compensation of jurors in all counties in this State.

SECTION XIX

Paragraph I. The General Assembly shall have power to provide for the creation of County Commissioners in such counties as may require them, and to define their duties.

SECTION XX

Paragraph I. All Courts not specially mentioned by name in the first section of this article may be abolished in any county, at the discretion of the General Assembly.

SECTION XXI

Paragraph I. The costs in the Supreme Court shall not exceed ten dollars, unless otherwise provided by law. Plaintiffs in error shall not be required to pay costs in said Court when the usual pauper oath is filed in the Court below.

Article VII

Finance, Taxation and Public Debt

Section I

Paragraph I. The powers of taxation over the whole State shall be exercised by the General Assembly for the following purposes only:

For the support of the State Government and the public institutions.

For educational purposes, in instructing children in the elementary branches of an English education only.

To pay the interest on the public debt.

To pay the principal of the public debt.

To suppress insurrection, to repel invasion, and defend the State in time of war.

To supply the soldiers who lost a limb, or limbs, in the military service of the Confederate States with substantial artificial limbs during life; and to make suitable provisions for such Confederate Soldiers as may have otherwise been disabled or permanently injured in such service; and for the widows of such Confederate Soldiers as may have died in the service of Confederate States, or since from wounds received therein, or disease contracted therein.

Section II

Paragraph I. All taxation shall be uniform upon the same class of subjects, and ad valorem on all property subject to be taxed within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws. The General Assembly may, however, impose a tax upon such domestic animals as, from their nature and habits, are destructive of other property.

Par. II. The General Assembly may, by law, exempt from taxation all public property, places of religious worship or burial; all institutions of purely public charity; all buildings erected for and used as a college, incorporated academy, or other seminary of learning; the real and personal estate of any public library, and that of any other literary association, used by or connected with such library; all books and philosophical apparatus; and all paintings and statuary of any company or association, kept in a public hall and not held as merchandise, or for purposes of sale or gain: Provided, the property so exempted be not used for purposes of private or corporate profit or income.

Par. III. No poll tax shall be levied except for educational purposes, and such tax shall not exceed one dollar annually upon each poll.

Par. IV. All laws exempting property from taxation, other than the property herein enumerated, shall be void.

Par. V. The power to tax corporations and corporate property shall not be surrounded or suspended by any contract or grant to which the State shall be a party.

Section III

Paragraph I. No debt shall be contracted by or on behalf of the State, except to supply casual deficiencies of revenue, to repel invasion, suppress insurrection, and defend the State in time of war, or

to pay the existing public debt; but the debt created to supply deficiencies in revenue shall not exceed, in the aggregate, two hundred thousand dollars.

SECTION IV

Paragraph I. All laws authorizing the borrowing of money by or on behalf of the State shall specify the purposes for which the money is to be used, and the money so obtained shall be used for the purpose specified, and no other.

SECTION V

Paragraph I. The credit of the State shall not be pledged or loaned to any individual, company, corporation or association, and the State shall not become a joint owner or stockholder in any company, association or corporation.

SECTION VI

Paragraph I. The General Assembly shall not authorize any county municipal corporation or political division of this State to become a stockholder in any company, corporation or association, or to appropriate money for, or to loan its credit to any corporation, company, association, institution or individual, except for purely charitable purposes. This restriction shall not operate to prevent the support of schools by municipal corporations within their respective limits: *Provided*, that if any municipal corporation shall offer to the State any property for locating or building a capitol, and the State accepts such offer, the corporation may comply with such offer.

Par. II. The General Assembly shall not have power to delegate to any county the right to levy a tax for any purpose, except for educational purposes in instructing children in the elementary branches of an English education only; to build and repair the public buildings and bridges; to maintain and support prisoners; to pay jurors and coroners, and for litigation, quarantine, roads and expenses of Courts; to support paupers and pay debts heretofore existing.

SECTION VII

Paragraph I. The debt hereafter incurred by any county, municipal corporation or political division of this State, except as in this Constitution provided for, shall never exceed seven per centum of the assessed value of all the taxable property therein; and no such county, municipality or division shall incur any new debt, except for a temporary loan or loans to supply casual deficiencies of revenue, not to exceed one-fifth of one per centum of the assessed value of taxable property therein, without the assent of two-thirds of the qualified voters thereof, at an election for that purpose, to be held as may be prescribed by law; but any city, the debt of which does not exceed seven per centum of the assessed value of the taxable property at the time of the adoption of this Constitution, may be authorized by law to increase, at any time, the amount of said debt, three per centum upon such assessed valuation.

Par. II. Any county, municipal corporation or political division of this State, which shall incur any bonded indebtedness under the provisions of this Constitution, shall, at or before the time of so

doing, provide for the assessment and collection of an annual tax sufficient in amount to pay the principal and interest of said debt within thirty years from the date of the incurring of said indebtedness.

SECTION VIII

Paragraph I. The State shall not assume the debt, nor any part thereof, of any county, municipal corporation, or political division of the State, unless such debt shall be contracted to enable the State to repel invasion, suppress insurrection, or defend itself in time of war.

SECTION IX

Paragraph I. The receiving, directly or indirectly, by any officer of the State or county, or member or officer of the General Assembly, of any interests, profits or perquisites arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for State or county purposes, shall be deemed a felony, and punishable as may be prescribed by law, a part of which punishment shall be a disqualification from holding office.

SECTION X

Paragraph I. Municipal corporations shall not incur any debt until provision therefor shall have been made by the municipal government.

SECTION XI

Paragraph I. The General Assembly shall have no authority to appropriate money, either directly or indirectly, to pay the whole or any part of the principal or interest of the bonds, or other obligations, which have been pronounced illegal, null and void by the General Assembly, and the constitutional amendments ratified by a vote of the people on the first day of May, 1877; nor shall the General Assembly have authority to pay any of the obligations created by the State under laws passed during the late war between the States, nor any of the bonds, notes or obligations made and entered into during the existence of said war, the time for the payment of which was fixed after the ratification of a treaty of peace between the United States and the Confederate States; nor shall the General Assembly pass any law, or the Governor, or other State official enter into any contract or agreement, whereby the State shall be made a party to any suit in any Court of this State, or of the United States, instituted to test the validity of any such bonds or obligations.

SECTION XII

Paragraph I. The bonded debt of the State shall never be increased, except to repel invasion, suppress insurrection, or defend the State in time of war.

SECTION XIII

Paragraph I. The proceeds of the sale of the Western and Atlantic, Macon and Brunswick, or other railroads, held by the State, and any other property owned by the State, whenever the General

Assembly may authorize the sale of the whole, or any part thereof, shall be applied to the payment of the bonded debt of the State, and shall not be used for any other purpose whatever, so long as the State has any existing bonded debt: Provided, that the proceeds of the sale of the Western and Atlantic Railroad shall be applied to the payment of the bonds for which said railroad has been mortgaged, in preference to all other bonds.

SECTION XIV

Paragraph I. The General Assembly shall raise, by taxation, each year, in addition to the sum required to pay the public expenses and interest on the public debt, the sum of one hundred thousand dollars, which shall be held as a sinking fund, to pay off and retire the bonds of the State which have not yet matured, and shall be applied to no other purpose whatever. If the bonds cannot at any time be purchased at or below par, then the sinking fund, herein provided for, may be loaned by the Governor and Treasurer of the State: Provided, the security which shall be demanded for said loan shall consist only of the valid bonds of the State; but this section shall not take effect until the eight per cent. currency bonds, issued under the Act of February the 19th, 1873, shall have been paid.

SECTION XV

Paragraph I. The Comptroller-General and Treasurer shall each make to the Governor a quarterly report of the financial condition of the State, which report shall include a statement of the assets, liabilities and income of the State, and expenditures therefor, for the three months preceding; and it shall be the duty of the Governor to carefully examine the same by himself, or through competent persons connected with his department, and cause an abstract thereof to be published for the information of the people, which abstract shall be endorsed by him as having been examined.

SECTION XVI

Paragraph I. The General Assembly shall not, by vote, resolution or order, grant any donation, or gratuity, in favor of any person, corporation or association.

Par. II. The General Assembly shall not grant or authorize extra compensation to any public officer, agent or contractor, after the service has been rendered, or the contract entered into.

SECTION XVII

Paragraph I. The office of the State Printer shall cease with the expiration of the term of the present incumbent, and the General Assembly shall provide, by law for letting the public printing to the lowest responsible bidder, or bidders, who shall give adequate and satisfactory security for the faithful performance thereof. No member of the General Assembly, or other public officer, shall be interested, either directly or indirectly, in any such contract.

Article VIII

EDUCATION

Section I

Paragraph I. There shall be a thorough system of common schools for the education of children in the elementary branches of an English education only, as nearly uniform as practicable, the expenses of which shall be provided for by taxation, or otherwise. The schools shall be free to all children of the State, but separate schools shall be provided for the white and colored races.

Section II

Paragraph I. There shall be a State School Commissioner, appointed by the Governor, and confirmed by the Senate, whose term of office shall be two years, and until his successor is appointed and qualified. His office shall be at the seat of government, and he shall be paid a salary not to exceed two thousand dollars per annum. The General Assembly may substitute for the State School Commissioner such officer, or officers, as may be deemed necessary to perfect the system of public education.

Section III

Paragraph I. The poll tax, any educational fund now belonging to the State (except the endowment of, and debt due to, the University of Georgia), a special tax on shows and exhibitions, and of the sale of spirituous and malt liquors, which the General Assembly is hereby authorized to assess, and the proceeds of any commutation tax for military service, and all taxes that may be assessed on such domestic animals as, from their nature and habits, are destructive to other property, are hereby set apart and devoted for the support of common schools.

Section IV

Paragraph I. Authority may be granted to counties, upon the recommendation of two grand juries, and to municipal corporations, upon the recommendation of the corporate authority, to establish and maintain public schools in their respective limits, by local taxation; but no such local laws shall take effect until the same shall have been submitted to a vote of the qualified voters in each county or municipal corporation, and approved by a two-thirds vote of persons qualified to vote at such election; and the General Assembly may prescribe who shall vote on such question.

Section V

Paragraph I. Existing local school systems shall not be affected by this Constitution. Nothing contained in section first of this article shall be construed to deprive schools in this State, not common schools, from participation in the educational fund of the State, as to all pupils therein taught in the elementary branches of an English education.

SECTION VI

Paragraph I. The Trustees of the University of Georgia may accept bequests, donations and grants of land, or other property, for the use of said University. In addition to the payment of the annual interest on the debt due by the State to the University, the General Assembly may, from time to time, make such donations thereto as the condition of the treasury will authorize. And the General Assembly may also, from time to time, make such appropriations of money as the condition of the treasury will authorize to any college or university (not exceeding one in number) now established, or hereafter to be established, in this State for the education of persons of color.

ARTICLE IX

HOMESTEAD AND EXEMPTIONS [a]

SECTION I

Paragraph I. There shall be exempt from levy and sale, by virtue of any process whatever under the laws of this State, except as hereinafter excepted of the property of every head of a family, or guardian, or trustee of a family of minor children, or every aged or infirm person, or persons having the care and support of dependent females of any age, who is not the head of a family, realty or personalty, or both, to the value in the aggregate of sixteen hundred dollars.

SECTION II

Paragraph I. No Court or ministerial officer in this State shall ever have jurisdiction or authority to enforce any judgment, execution or decree, against the property set apart for such purpose, including such improvements as may be made thereon from time to time, except for taxes, for the purchase money of the same, for labor done thereon, for material furnished therefor, or for the removal of incumbrances thereon.

SECTION III

Paragraph I. The debtor shall have power to waive or renounce in writing his right to the benefit of the exemption provided for in this article, except as to wearing apparel, and not exceeding three hundred dollars worth of household and kitchen furniture, and provisions, to be selected by himself and his wife, if any, and he shall not, after it is set apart, alienate or incumber the property so exempted, but it may be sold by the debtor and his wife, if any, jointly, with the sanction of the Judge of the Superior Court of the county where the debtor resides or the land is situated, the proceeds to be reinvested upon the same uses.

SECTION IV

Paragraph I. The General Assembly shall provide, by law, as early as practicable, for the setting apart and valuation of said prop-

[a] NOTE.—The above provision of the Constitution was specially submitted to the people, and ratified, as a part thereof, by them, on December 5th, 1887.

erty. But nothing in this article shall be construed to affect or repeal the existing laws for exemption of property from sale contained in the present Code of this State, in paragraphs 2040 to 2049 inclusive, and the Act amendatory thereto. It may be optional with the applicant to take either, but not both, of such exemptions.

SECTION V

Paragraph I. The debtor shall have authority to waive or renounce in writing his right to the benefit of the exemption provided for in section four, except as is excepted in section three of this article.

SECTION VI

Paragraph I. The applicant shall, at any time, have the right to supplement his exemption by adding to an amount already set apart, which is less than the whole amount of exemption herein allowed, a sufficiency to make his exemption equal to the whole amount.

SECTION VII

Paragraph I. Homestead and exemptions of personal property which have been heretofore set apart by virtue of the provisions of the existing Constitution of this State, and in accordance with the laws for the enforcement thereof, or which may be hereafter so set apart, at any time, shall be and remain valid as against all debts and liabilities existing at the time of the adoption of this Constitution, to the same extent that they would have been had said existing Constitution not been revised.

SECTION VIII

Paragraph I. Rights which have become vested under previously existing laws shall not be affected by anything herein contained. In all cases in which homesteads have been set apart under the Constitution of 1868, and the laws made in pursuance thereof, and a *bona fide* sale of such property has been subsequently made, and the full purchase price thereof paid, all right of exemption in such property by reason of its having been so set apart, shall cease in so far as it affects the right of the purchaser. In all such cases where a part only the purchase price has been paid, such transaction shall be governed by the laws now of force in this State, in so far as they affect the rights of the purchase, as though said property had not been set apart.

SECTION IX

Paragraph I. Parties who have taken a homestead of realty under the Constitution of eighteen hundred and sixty-eight shall have the right to sell said homestead and reinvest the same by order of the Judge of the Superior Courts of this State.

Article X

MILITIA

Section I

Paragraph I. A well regulated militia being essential to the peace and security of the State, the General Assembly shall have authority to provide by law how the militia of this State shall be organized, officered, trained, armed and equipped, and of whom it shall consist.

Par. II. The General Assembly shall have power to authorize the formation of volunteer companies, and to provide for their organization into battalions, regiments, brigades, divisions and corps, with such restrictions as may be prescribed by law, and shall have authority to arm and equip the same.

Par. III. The officers and men of the militia and volunteer forces shall not be entitled to receive any pay, rations or emoluments, when not in active service by authority of the State.

Article XI

COUNTIES AND COUNTY OFFICERS

Section I

Paragraph I. Each county shall be a body corporate, with such powers and limitations as may be prescribed by law. All suits by or against a county shall be in the name thereof; and the metes and bounds of the several counties shall remain as now prescribed by law, unless changed as hereinafter provided.

Par. II. No new county shall be created.

Par. III. County lines shall not be changed, unless under the operation of a general law for that purpose.

Par. IV. No county site shall be changed or removed, except by a two-thirds votes of the qualified voters of the county, voting at an election held for that purpose, and a two-thirds vote of the General Assembly.

Par. V. Any county may be dissolved and merged with contiguous counties by a two-thirds vote of the qualified electors of such county voting at an election held for that purpose.

Section II

Paragraph I. The county officers shall be elected by the qualified voters of their respective counties or districts, and shall hold their offices for two years. They shall be removed on conviction for malpractice in office, and no person shall be eligible to any of the offices referred to in this paragraph, unless he shall have been a resident of the county for two years and is a qualified voter.

Section III

Paragraph I. Whatever tribunal, or officers, may hereafter be created by the General Assembly for the transaction of county matters, shall be uniform throughout the State, and of the same name, jurisdiction and remedies, except that the General Assembly may provide for the appointment of commissioners of roads and revenue in any county.

Article XII

THE LAWS OF GENERAL OPERATION IN FORCE IN THIS STATE

Section I

Paragraph I. The laws of general operation in this State are, first, as the supreme law: The Constitution of the United States, the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States.

Par. II. Second. As next in authority thereto: this Constitution.

Par. III. Third. In subordination to the foregoing: All laws now of force in this State, not inconsistent with this Constitution, and the ordinances of this Convention, shall remain of force until the same are modified or repealed by the General Assembly. The tax acts and appropriation acts passed by the General Assembly of 1877, and approved by the Governor of the State, and not inconsistent with the Constitution, are hereby continued in force until altered by law.

Par. IV. Local and private acts passed for the benefit of counties, cities, towns, corporations and private persons not inconsistent with the supreme law, nor with this Constitution, and which have not expired nor been repealed, shall have the force of statute law, subject to judicial decision as to their validity when passed, and to any limitations imposed by their own terms.

Par. V. All rights, privileges and immunities which may have vested in, or accrued to, any person or persons, or corporation, in his, her or their own right, or in any fiduciary capacity, under and in virtue of any Act of the General Assembly, or any judgment, decree or order, or other proceeding of any Court of competent jurisdiction in this State heretofore rendered, shall be held inviolate by all Courts before which they may be brought in question, unless attacked for fraud.

Par. VI. All judgments, decrees, orders and other proceedings of the several Courts of this State, heretofore made, within the limits of their several jurisdictions, are hereby ratified and affirmed, subject only to reversal by motion for a new trial, appeal, bill of review, or other proceeding, in conformity with the law of force when they were made.

Par. VII. The officers of the government now existing shall continue in the exercise of their several functions until their successors are duly elected, or appointed and qualified, but nothing herein is to apply to any officer whose office may be abolished by this Constitution.

Par. VIII. The ordinances of this Convention shall have the force of laws until otherwise provided by the General Assembly, except the ordinances in reference to submitting the homestead and capital question to a vote of the people, which ordinances, after being voted on, shall have the effect of constitutional provisions.[a]

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[a] NOTE.—Under the Ordinance of the Convention, submitting the question of the location of the Capital to the people, the city of Atlanta was chosen, December 5th, 1877.

Article XIII

Amendments to the Constitution

Section I

Paragraph I. Any amendment, or amendments, to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by two-thirds of the members elected to each of the two Houses, such proposed amendment, or amendments, shall be entered on their journals, with the yeas and nays taken thereon. And the General Assembly shall cause such amendment, or amendments, to be published in one or more newspapers in each Congressional District, for two months previous to the time of holding the next general election, and shall also provide for a submission of such proposed amendment, or amendments, to the people at said next general election, and if the people shall ratify such amendment, or amendments, by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment, or amendments, shall become a part of this Constitution. When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

Par. II. No convention of the people shall be called by the General Assembly to revise, amend or change this Constitution, unless by the concurrence of two-thirds of all the members of each House of the General Assembly. The representation in said convention shall be based on population as near as practicable.

Section II

Paragraph I. The Constitution shall be submitted for ratification or rejection to the voters of the State, at an election to be held on the first Wednesday in December, one thousand eight hundred and seventy-seven, in the several election districts of this State, at which election every person shall be entitled to vote who is entitled to vote for the members of the General Assembly under the Constitution and laws of force at the date of such election; said election to be held and conducted as is now provided by law for holding elections for members of the General Assembly. All persons voting at said election in favor of adopting the Constitution shall write or have printed on their ballots the words "For Ratification," and all persons opposed to the adoption of this Constitution shall write or have printed on their ballots the words "Against Ratification."

Par. II. The votes cast at said election shall be consolidated in each of the counties of the State as is now required by law in elections for members of the General Assembly, and returns thereof made to the Governor; and should a majority of all the votes cast at said election be in favor of ratification, he shall declare the said Constitution adopted, and make proclamation of the result of said election by publication in one or more newspapers in each Congressional District of the State, but should a majority of the votes cast be against ratification, he shall in the same manner proclaim the said Constitution rejected.

ORDINANCES

AN ORDINANCE

Be it ordained by the people of Georgia in Convention assembled:

1st. That the question of the location of the Capital of this State be kept out of the Constitution to be adopted by the Convention.

2d. That at the first general election hereafter held for members of the General Assembly, every voter may indorse on his ballot "Atlanta" or "Milledgeville," and the one of these places receiving the largest number of votes shall be Capital of the State until changed by the same authority and in the same way that may be provided for the alteration of the Constitution that may be adopted by the Convention, whether said Constitution be ratified or rejected. And that every person entitled to vote for members of the General Assembly, under the present Constitution and laws of this State, shall be entitled to vote under this ordinance; and, in the event of the rejection of said Constitution, shall (should) a majority of votes cast be in favor of Milledgeville, then this provision to operate and take effect as an amendment to the present Constitution.

AN ORDINANCE

Be it ordained by the people of Georgia in Convention assembled, and it is hereby ordained by authority of the same:

1st. That the article adopted by this Convention on the subject of Homestead and Exemption shall not form a part of this Constitution, except as hereinafter provided.

2d. At the election held for the ratification or rejection of this Constitution, it shall be lawful for each voter to have written or printed on his ballot the words "Homestead of 1877," or the words "Homestead of 1868."

3d. In the event that a majority of the ballots so cast have indorsed upon them the words "Homestead of 1877," then said article, so adopted by this Convention shall form a part of the Constitution submitted, if the same is ratified; but in the event that said Constitution, so submitted, shall not be ratified, then the article on Homestead and Exemptions, so adopted as aforesaid by this Convention, shall supersede article seven of the Constitution of 1868 on the subject of Homestead and Exemptions, and form a part of this Constitution.

4th. If a majority of the ballots, so cast as aforesaid, shall have indorsed upon them the words "Homestead of 1868," then article seventh of the Constitution of 1868 shall supersede the article on Homestead and Exemptions adopted by this Convention, and shall be incorporated in and form (a part) of the Constitution so submitted and ratified.

Read and adopted in Convention, August 22, 1877.

C. J. JENKINS,
President Constitutional Convention.

Attest:

JAMES COOPER NISBET, *Secretary.*

AMENDMENTS TO CONSTITUTION

Paragraph 15, of Section 7, Article 3, stricken out.

Paragraph 1, Section 1, Article 7, amended by adding at the end of said paragraph the following words: "And to make suitable provisions for such Confederate soldiers as may have been permanently injured in such service."

See Acts of 1884–1885.

Paragraph 1, Section 1, Article 7, also amended by adding at the end of said paragraph the following words: "And to make suitable provision for such Confederate soldiers as may have otherwise been disabled or permanently injured in such service; and for the widows of such Confederate soldiers as may have died in the service of the Confederate States, or since from wounds received therein, or diseases contracted therein."

Paragraph 3, Section 4, Article 2, amended by striking out "biennially" after the word "and" and before the word "thereafter," and substituting therefor the word "annually."

Paragraph 6, Section 4, Article 2, amended by striking out the words "forty days, unless by a two-thirds vote of the whole number of each House," and substituting therefor "fifty days." (These amendments were construed to apply to Article 3, instead of Article 2.)

Paragraph 7, Section 7, Article 3, amended by adding thereto, "but the first and second reading of each local bill and bank and railroad charters in each House shall consist of the reading of the title only, unless said bill is ordered to be engrossed."

Paragraph 18, Section 7, Article 3, amended by striking out, after the word "companies," in the second line, the following words, viz.: "Except banking, insurance, railroad, canal, navigation, express and telegraph companies," and substituting therefor, at the end of said paragraph, after the word "courts," the following, viz.: "All corporate powers and privileges to banking, insurance, railroad, canal, navigation, express and telegraph companies shall be issued and granted by the Secretary of State in such manner as shall be prescribed by law."

See Acts of 1890–91, Vol. 1, pages 55 to 60, inclusive.

Paragraph 1, Section 1, of Article 7, by adding after the word service in the thirteenth line of said paragraph, the following words, to-wit: "Or who, by reason of age and poverty, or infirmity and poverty, or blindness and poverty, are unable to provide a living for themselves."

Act approved, December 19, 1893. Adopted by vote of the people Oct., 1894.

Article VI—1898,[a] Section 1, Section 3, Paragraph 2:

The successors to the present and subsequent incumbents shall be elected by the electors entitled to vote for members of the General Assembly of the whole State, at the general election held for such members, next preceding the expiration of their respective terms; provided, that the successors for all incumbents whose terms expire on or before the first day of January 1899, shall be elected by the General Assembly at its session for 1898, for the full term of four years.

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[a] The Code of the State of Georgia. Vol. IV. Prepared by Howard Van Epps, Esq., Nashville, Tenn.: 1901. pp. 63–65.

Article VI, Section 3, Paragraph 3:

The terms of the judges to be elected under the Constitution (except to fill vacancies) shall begin on the first day of January after their election. Every vacancy occasioned by death, resignation or other causes shall be filled by appointments of the Governor until the first day of January after the general election held next after the expiration of thirty days from the time such vacancy occurs, at which election a successor for the unexpired term shall be elected.

Article VI, Section 11, Paragraph 1:

There shall be a Solicitor General for each judicial circuit whose official term (except to fill a vacancy) shall be four years. The successors of present and subsequent incumbents shall be elected by the electors of the whole State qualified to vote for members of the General Assembly at the general election held next preceding the expiration of their respective terms. Every vacancy occasioned by death, resignation or other cause, shall be filled by appointment of the Governor until the first day of January after the general election held next after the expiration of thirty days from the time such vacancy occurs, at which election a successor for the unexpired term shall be elected; provided, that the successors for all incumbents whose terms expire on or before the first day of January, 1899, shall be elected by the General Assembly at its session for 1898, for the full term of four years.

GUAM.

See TREATY CEDING THE PHILIPPINES ETC, 1898 (Philippines, p. 3153).

[There are no statutes of Congress nor any public orders of the President relating to Guam which can be called organic. The resident United States naval officer is in complete control of the government of the island. See Report of the Secretary of War for 1904, p. 25.]

HAWAII.

JOINT RESOLUTION FOR ANNEXATION OF HAWAIIAN ISLANDS—1898

[FIFTY-FIFTH CONGRESS, SECOND SESSION]

Joint Resolution to provide for annexing the Hawaiian Islands to the United States

Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands all the cival, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

Approved, July 7, 1898.

TERRITORIAL GOVERNMENT OF HAWAII—1900 [a]

[FIFTY-SIXTH CONGRESS, FIRST SESSION]

An Act to provide a government for the Territory of Hawaii

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHAPTER I.—GENERAL PROVISIONS

DEFINITIONS

SEC. 1. That the phrase "the laws of Hawaii," as used in this Act without qualifying words, shall mean the constitution and laws of the Republic of Hawaii, in force on the twelfth day of August, eighteen hundred and ninety-eight, at the time of the transfer of the sovereignty of the Hawaiian Islands to the United States of America.

The constitution and statute laws of the Republic of Hawaii then in force, set forth in a compilation made by Sidney M. Ballou under the authority of the legislature, and published in two volumes entitled "Civil Laws" and "Penal Laws," respectively, and in the Session Laws of the Legislature for the session of eighteen hundred and ninety-eight, are referred to in this Act as "Civil Laws," "Penal Laws," and "Session Laws."

TERRITORY OF HAWAII

SEC. 2. That the islands acquired by the United States of America under an Act of Congress entitled "Joint resolution to provide for annexing the Hawaiian Islands to the United States;" approved July seventh, eighteen hundred and ninety-eight, shall be known as the Territory of Hawaii.

GOVERNMENT OF THE TERRITORY OF HAWAII

SEC. 3. That a Territorial government is hereby established over the said Territory, with its capital at Honolulu, on the island of Oahu.

CITIZENSHIP

SEC. 4. That all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.

And all citizens of the United States resident in the Hawaiian Islands who were resident there on or since August twelfth, eighteen hundred and ninety-eight, and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii.

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[a] For other statutes of an organic nature relating to Hawaii subsequent to 1900 see the act to redeem and exchange for United States silver coin the Hawaiian silver certificates and coins, January 14, 1903; to provide for municipal officers and for appeals to United States supreme court, March 3, 1905.

APPLICATION OF THE LAWS OF THE UNITED STATES

SEC. 5. That the Constitution, and, except as herein otherwise provided, all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States: *Provided*, That sections eighteen hundred and fifty and eighteen hundred and ninety of the Revised Statutes of the United States shall not apply to the Territory of Hawaii.

LAWS OF HAWAII

SEC. 6. That the laws of Hawaii not inconsistent with the Constitution or laws of the United States or the provisions of this Act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States.

SEC. 7. That the constitution of the Republic of Hawaii and the laws of Hawaii, as set forth in the following acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the following subjects, are hereby repealed:

CIVIL LAWS: Sections two and three, Promulgation of laws; chapter five, Flag and seal; sections thirty to thirty-three, inclusive, Tenders for supplies; chapter seven, Minister of foreign affairs; chapter eight, Diplomatic and consular agents; sections one hundred and thirty-four and one hundred and thirty-five, National museum; chapter twelve, Education of Hawaiian youths abroad; sections one hundred and fifty to one hundred and fifty-six, inclusive, Aid to board of education; chapter fourteen, Minister of the Interior; sections one hundred and sixty-six to one hundred and sixty-eight, inclusive, one hundred and seventy-four and one hundred and seventy-five, Government lands; section one hundred and ninety, Board of commissioners of public lands; section four hundred and twenty-four, Bureau of agriculture and forestry; chapter thirty-one, Agriculture and manufactures; chapter thirty-two, Ramie; chapter thirty-three, Taro flour; chapter thirty-four, Development of resources; chapter thirty-five, Agriculture; section four hundred and seventy-seven, Brands; chapter thirty-seven, Patents; chapter thirty-eight, Copyrights; sections five hundred and fifty-six and five hundred and fifty-seven, Railroad subsidy; chapter forty-seven, Pacific cable; chapter forty-eight, Hospitals; chapter fifty-one, Coins and currency; chapter fifty-four, Consolidation of public debt; chapter fifty-six, Post-office; chapter fifty-seven, Exemptions from postage; chapter fifty-eight, Postal savings banks; chapter sixty-five, Import duties; chapter sixty-six, Imports; chapter sixty-seven, Ports of entry and collection districts; chapter sixty-eight, Collectors; chapter sixty-nine, Registry of vessels; section one thousand and eleven, Custom-house charges; section eleven hundred and two, Elections; section eleven hundred and thirty-two, Appointment of magistrate; last clause of first subdivision and fifth subdivision of section eleven hundred and forty-four, first subdivision of section eleven hundred and forty-five, Jurisdiction; sections eleven hundred and seventy-three to eleven hundred and seventy-eight, inclusive, Translation of decisions; section eleven hundred and eighty-

eight, Clerks of court; sections thirteen hundred and twenty-nine, thirteen hundred and thirty-one, thirteen hundred and thirty-two, thirteen hundred and forty-seven to thirteen hundred and fifty-four, inclusive, Juries; sections fifteen hundred and nine to fifteen hundred and fourteen, inclusive, Maritime matters; chapter one hundred and two, Naturalization; section sixteen hundred and seventy-eight, Habeas corpus; chapter one hundred and eight, Arrest of debtors; subdivisions six, seven, ten, twelve to fourteen of section seventeen hundred and thirty-six, Garnishment; sections seventeen hundred and fifty-five to seventeen hundred and fifty-eight, inclusive, Liens on vessels; chapter one hundred and sixteen, Bankruptcy, and sections eighteen hundred and twenty-eight to eighteen hundred and thirty-two, inclusive, Water rights.

Penal Laws: Chapter six, Treason; section sixty-five to sixty-seven, inclusive, Foot binding; chapter seventeen, Violation of postal laws; section three hundred and fourteen, Blasphemy; sections three hundred and seventy-one to three hundred and seventy-two, inclusive, Vagrants; sections four hundred and eleven to four hundred and thirteen, inclusive, Manufacture of liquors; chapter forty-three, Offenses on the high seas and other waters; sections five hundred and ninety-five and six hundred and two to six hundred and five, inclusive, Jurisdiction; section six hundred and twenty-three, Procedure; sections seven hundred and seven hundred and one, Imports; section seven hundred and fifteen, Auction license; section seven hundred and forty-five, Commercial travelers; sections seven hundred and forty-eight to seven hundred and fifty-five, inclusive, Firearms; sections seven hundred and ninety-six to eight hundred and nine, inclusive, Coasting trade; sections eight hundred and eleven and eight hundred and twelve, Peddling foreign goods; sections eight hundred and thirteen to eight hundred and fifteen, inclusive, Importation of live stock; section eight hundred and nineteen, Imports; sections eight hundred and eighty-six to nine hundred and six, inclusive, Quarantine; section eleven hundred and thirty-seven, Consuls and consular agents; chapter sixty-seven, Whale ships; sections eleven hundred and forty-five to eleven hundred and seventy-nine, inclusive, and twelve hundred and four to twelve hundred and nine, inclusive, Arrival, entry, and departure of vessels; chapters sixty-nine to seventy-six, inclusive, Navigation and other matters within the exclusive jurisdiction of the United States; sections thirteen hundred and forty-seven and thirteen hundred and forty-eight, Fraudulent exportation; chapter seventy-eight, Masters and servants; chapter ninety-three, Immigration; sections sixteen hundred and one, sixteen hundred and eight, and sixteen hundred and twelve, Agriculture and forestry; chapter ninety-six, Seditious offenses; and chapter ninety-nine, Sailing regulations.

Session Laws: Act fifteen, Elections; Act twenty-six, Duties; Act twenty-seven, Exemptions from duties; Act thirty-two, Registry of vessels; section four of Act thirty-eight, Importation of live stock; Act forty-eight, Pacific cable; Act sixty-five, Consolidation of public debt; Act sixty-six, Ports of entry; and Act sixty-eight, Chinese immigration.

CERTAIN OFFICES ABOLISHED

SEC. 8. That the offices of President, minister of foreign affairs, minister of the interior, minister of finance, minister of public instruction, auditor-general, deputy auditor-general, surveyor-general, marshal, and deputy marshal of the Republic of Hawaii are hereby abolished.

AMENDMENT OF OFFICIAL TITLES

SEC. 9. That wherever the words "President of the Republic of Hawaii," or "Republic of Hawaii," or "Government of the Republic of Hawaii," or their equivalents, occur in the laws of Hawaii not repealed by this Act, they are hereby amended to read "Governor of the Territory of Hawaii," or "Territory of Hawaii," or "Government of the Territory of Hawaii," or their equivalents, as the context requires.

CONSTRUCTION OF EXISTING STATUTES

SEC. 10. That all rights of action, suits at law and in equity, prosecutions, and judgments existing prior to the taking effect of this Act shall continue to be as effectual as if this Act had not been passed; and those in favor of or against the Republic of Hawaii, and not assumed by or transferred to the United States, shall be equally valid in favor of or against the government of the Territory of Hawaii. All offenses which by statute then in force were punishable as offenses against the Republic of Hawaii shall be punishable as offenses against the government of the Territory of Hawaii, unless such statute is inconsistent with this Act, or shall be repealed or changed by law. No person shall be subject to imprisonment for nonpayment of taxes nor for debt. All criminal and penal proceedings then pending in the courts of the Republic of Hawaii shall be prosecuted to final judgment and execution in the name of the Territory of Hawaii; all such proceedings, all actions at law, suits in equity, and other proceedings then pending in the courts of the Republic of Hawaii shall be carried on to final judgment and execution in the corresponding courts of the Territory of Hawaii; and all process issued and sentences imposed before this Act takes effect shall be as valid as if issued or imposed in the name of the Territory of Hawaii: *Provided*, That no suit or proceedings shall be maintained for the specific performance of any contract heretofore or hereafter entered into for personal labor or service, nor shall any remedy exist or be enforced for breach of any such contract, except in a civil suit or proceeding instituted solely to recover damages for such breach: *Provided further*, That the provisions of this section shall not modify or change the laws of the United States applicable to merchant seamen.

That all contracts made since August twelfth, eighteen hundred and ninety-eight, by which persons are held for service for a definite term, are hereby declared null and void and terminated, and no law shall be passed to enforce said contracts in any way; and it shall be the duty of the United States marshal to at once notify such persons so held of the termination of their contracts.

That the Act approved February twenty-sixth, eighteen hundred and eighty-five, "To prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," and the Acts amendatory thereof and supplemental thereto, be, and the same are hereby, extended to and made applicable to the Territory of Hawaii.

STYLE OF PROCESS

SEC. 11. That the style of all process in the Territorial courts shall hereafter run in the name of "The Territory of Hawaii," and all prosecutions shall be carried on in the name and by the authority of the Territory of Hawaii.

CHAPTER II.—THE LEGISLATURE

THE LEGISLATIVE POWER

SEC. 12. That the legislature of the Territory of Hawaii shall consist of two houses, styled, respectively, the senate and house of representatives, which shall organize and sit separately, except as otherwise herein provided.

The two houses shall be styled "The legislature of the Territory of Hawaii."

SEC. 13. That no person shall sit as a senator or representative in the legislature unless elected under and in conformity with this Act.

GENERAL ELECTIONS

SEC. 14. That a general election shall be held on the Tuesday next after the first Monday in November, nineteen hundred, and every second year thereafter: *Provided, however*, That the governor may, in his discretion, on thirty days' notice, order a special election before the first general election, if, in his opinion, the public interests shall require a special session of the legislature.

EACH HOUSE JUDGE OF QUALIFICATIONS OF MEMBERS

SEC. 15. That each house shall be the judge of the elections, returns, and qualifications of its own members.

DISQUALIFICATIONS OF LEGISLATORS

SEC. 16. That no member of the legislature shall, during the term for which he is elected, be appointed or elected to any office of the Territory of Hawaii.

DISQUALIFICATIONS OF GOVERNMENT OFFICERS AND EMPLOYEES

SEC. 17. That no person holding office in or under or by authority of the Government of the United States or of the Territory of Hawaii shall be eligible to election to the legislature, or to hold the position of a member of the same while holding said office.

SEC. 18. No idiot or insane person, and no person who shall be expelled from the legislature for giving or receiving bribes or being accessory thereto, and no person who, in due course of law, shall have been convicted of any criminal offense punishable by imprisonment, whether with or without hard labor, for a term exceeding one year, whether with or without fine, shall register to vote or shall vote or hold any office in, or under, or by authority of, the government, unless the person so convicted shall have been pardoned and restored to his civil rights.

OATH OF OFFICE

SEC. 19. That every member of the legislature, and all officers of the government of the Territory of Hawaii, shall take the following oath or affirmation:

I solemly swear (or affirm), in the presence of Almighty God, that I will faithfully support the Constitution and laws of the United States, and conscientiously and impartially discharge my duties as a member of the legislature, or as an officer of the government of the Territory of Hawaii (as the came may be).

OFFICERS AND RULES

SEC. 20. That the senate and house of representatives shall each choose its own officers, determine the rules of its own proceedings, not inconsistent with this Act, and keep a journal.

AYES AND NOES

SEC. 21. That the ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal.

QUORUM

SEC. 22. That a majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a law in each house shall require the vote of a majority of all the members to which such house is entitled.

SEC. 23. That a smaller number than a quorum may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 24. That, for the purpose of ascertaining whether there is a quorum present, the chairman shall count the number of members present.

PUNISHMENT OF PERSONS NOT MEMBERS

SEC. 25. That each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest, or detain any witness or other person ordered to attend such house, on his way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

But the person charged with the offense shall be informed, in writing, of the charge made against him, and have an opportunity to present evidence and be heard in his own defense.

COMPENSATION OF MEMBERS

SEC. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of ten cents a mile each way, the sum of four hundred dollars for each regular session of the legislature, payable in three equal installments on and after the first, thirtieth, and fiftieth days of the session, and the sum of two hundred dollars for each extra session of the legislature.

PUNISHMENT OF MEMBERS

SEC. 27. That each house may punish its own members for disorderly behavior or neglect of duty, by censure, or by a two-thirds vote suspend or expel a member.

EXEMPTION FROM LIABILITY

SEC. 28. That no member of the legislature shall be held to answer before any other tribunal for any words uttered in the exercise of his legislative functions in either house.

EXEMPTION FROM ARREST

SEC. 29. That the members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the respective houses, and in going to and returning from the same: *Provided*, That such privilege as to going and returning shall not cover a period of over ten days each way.

THE SENATE

NUMBER OF MEMBERS

SEC. 30. That the Senate shall be composed of fifteen members, who shall hold office for four years: *Provided*, *however*, That of the senators elected at the first general election, two from the first district, one from the second, three from the third, and one from the fourth district shall hold office for two years only, the details of such apportionment to be provided for by the legislature.

VACANCIES

SEC. 31. That vacancies caused by death, resignation, or otherwise shall be filled for the unexpired term at general or special elections.

SENATORIAL DISTRICTS

SEC. 32. That for the purpose of representation in the senate, until otherwise provided by law, the Territory is divided into the following senatorial districts, namely:

First district: The island of Hawaii.

Second district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Third district: The island of Oahu.
Fourth district: The islands of Kauai and Niihau.

SEC. 33. That the electors in the said districts shall be entitled to elect senators as follows:
In the first district, four;
In the second district, three;
In the third district, six;
In the fourth district, two.

QUALIFICATIONS OF SENATORS

SEC. 34. That in order to be eligible to election as a senator a person shall—
Be a male citizen of the United States;
Have attained the age of thirty years;
Have resided in the Hawaiian Islands not less than three years and be qualified to vote for senators in the district from which he is elected.

THE HOUSE OF REPRESENTATIVES

NUMBER OF REPRESENTATIVES

SEC. 35. That the house of representatives shall be composed of thirty members, elected, except as herein provided, every second year.

TERM OF OFFICE

SEC. 36. That the term of office of the representatives elected at any general or special election shall be until the next general election held thereafter.

VACANCIES

SEC. 37. That vacancies in the office of representative caused by death, resignation, or otherwise shall be filled for the unexpired term at special elections.

REPRESENTATIVE DISTRICTS

SEC. 38. That for the purpose of representation in the house of representatives, until otherwise provided by law, the Territory is divided into the following representative districts, namely:
First district: That portion of the island of Hawaii known as Puna, Hilo, and Hamakua.
Second district: That portion of the island of Hawaii known as Kau, Kona, and Kohala.
Third district: The islands of Maui, Molokai, Lanai, and Kahoolawe.
Fourth district: That portion of the island of Oahu lying east and south of Nuuanu street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point.
Fifth district: That portion of the island of Oahu lying west and north of the fourth district.
Sixth district: The islands of Kauai and Nühau.

APPORTIONMENT

SEC. 39. That the electors in the said districts shall be entitled to elect representatives as follows:

In the first district, four;
In the second district, four;
In the third district, six;
In the fourth district, six;
In the fifth district, six;
In the sixth district, four.

QUALIFICATIONS OF REPRESENTATIVES

SEC. 40. That in order to be eligible to be a member of the house of representatives a person shall, at the time of election—

Have attained the age of twenty-five years;
Be a male citizen of the United States;
Have resided in the Hawaiian Islands not less than three years:
And shall be qualified to vote for representatives in the district from which he is elected.

LEGISLATION

SESSIONS OF THE LEGISLATURE

SEC. 41. That the first regular session of the legislature shall be held on the third Wednesday in February, nineteen hundred and one, and biennially thereafter, in Honolulu.

SEC. 42. That neither house shall adjourn during any session for more than three days, or sine die, without the consent of the other.

SEC. 43. That each session of the legislature shall continue not longer than sixty days, excluding Sundays and holidays: *Provided, however*, That the governor may extend such session for not more than thirty days.

The governor may convene the legislature, or the senate alone, in special session, and, in case the seat of government shall be unsafe from an enemy, riot, or insurrection, or any dangerous disease, direct that any regular or special session shall be held at some other than the regular meeting place.

ENACTING CLAUSE—ENGLISH LANGUAGE

SEC. 44. That the enacting clause of all laws shall be, "Be it enacted by the legislature of the Territory of Hawaii."

All legislative proceedings shall be conducted in the English language.

TITLE OF LAWS

SEC. 45. That each law shall embrace but one subject, which shall be expressed in its title.

READING OF BILLS

SEC. 46. That a bill in order to become a law shall, except as herein provided, pass three readings in each house, on separate days, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal.

CERTIFICATION OF BILLS FROM ONE HOUSE TO THE OTHER

SEC. 47. That every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

SIGNING BILLS

SEC. 48. That, except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor.

VETO OF GOVERNOR

SEC. 49. That every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses, and shall thereupon be presented to the governor. If he approves it, he shall sign it, and it shall become a law. If the governor does not approve such bill, he may return it, with his objections, to the legislature.

He may veto any specific item or items in any bill which appropriates money for specific purposes; but shall veto other bills, if at all, only as a whole.

PROCEDURE UPON RECEIPT OF VETO

SEC. 50. That upon the receipt of a veto message from the governor each house of the legislature shall enter the same at large upon its journal and proceed to reconsider such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal.

If after such reconsideration such bill, or part of a bill, shall be approved by a two-thirds vote of all the members to which each house is entitled, it shall thereby become law.

FAILURE TO SIGN OR VETO

SEC. 51. That if the governor neither signs nor vetoes a bill within ten days after it is delivered to him it shall become a law without his signature, unless the legislature adjourns sine die prior to the expiration of such ten days.

If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature by their adjournment prevents its return, in which case it shall not be a law.

APPROPRIATIONS

SEC. 52. That appropriations, except as otherwise herein provided, shall be made biennially by the legislature: *Provided, however*, That pending the time when this Act shall take effect and until a session of the legislature of the Territory of Hawaii shall be held, the President may, in his discretion, authorize and direct the use of such money in the treasury of the Republic of Hawaii as well as of the Territory of

Hawaii, as he shall think requisite and proper for carrying on the government of the Territory of Hawaii, the preservation of the public health, the completion of the sewerage system of the city of Honolulu, and such other expenditures as in the President's judgment shall seem to be appropriate.

SEC. 53. That the governor shall submit to the legislature, at each regular session, estimates for appropriations for the succeeding biennial period.

SEC. 54. That in case of failure of the legislature to pass appropriation bills providing for payments of the necessary current expenses of carrying on the government and meeting its legal obligations as the same are provided for by the then existing laws, the governor shall, upon the adjournment of the legislature, call it in extra session for the consideration of appropriation bills, and until the legislature shall have acted the treasurer may, with the advice of the governor, make such payments, for which purpose the sums appropriated in the last appropriation bills shall be deemed to have been reappropriated. And all legislative and other appropriations made prior to the date when this Act shall take effect, shall be available to the government of the Territory of Hawaii.

LEGISLATIVE POWER

SEC. 55. That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable. The legislature, at its first regular session after the census enumeration shall be ascertained, and from time to time thereafter, shall reapportion the membership in the senate and house of representatives among the senatorial and representative districts on the basis of the population in each of said districts who are citizens of the Territory; but the legislature shall not grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the approval of Congress; nor shall it grant private charters, but it may by general act permit persons to associate themselves together as bodies corporate for manufacturing, agricultural, and other industrial pursuits, and for conducting the business of insurance, savings banks, banks of discount and deposit (but not of issue), loan, trust, and guaranty associations, for the establishment and conduct of cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association: *Provided*, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres; and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired. No divorce shall be granted by the legislature, nor shall any divorce be granted by the courts of the Territory unless the applicant therefor shall have resided in the Territory for two years next preceding the application, but this provision shall not affect any action pending when this Act takes effect; nor shall any lottery or sale of lottery tickets be allowed; nor shall spirituous or intoxicating liquors be sold except under such

regulations and restrictions as the Territorial legislature shall provide; nor shall any public money be appropriated for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the government; nor shall the government of the Territory of Hawaii, or any political or municipal corporation or subdivision of the Territory, make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall any debt be authorized to be contracted by or on behalf of the Territory, or any political or municipal corporation or subdivision thereof, except to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defense, except that in addition to any indebtedness created for such purposes the legislature may authorize loans by the Territory, or any such subdivision thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads, and harbor and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any subdivision shall not exceed one per centum upon the assessed value of taxable property of the Territory or subdivision thereof, as the case may be, as shown by the last general assessment for taxation, and the total indebtedness for the Territory shall not at any time be extended beyond seven per centum of such assessed value, and the total indebtedness of any subdivision shall not at any time be extended beyond three per centum of such assessed value, but nothing in this provision shall prevent the refunding of any existing indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or any part thereof, nor shall any bond or other instrument of any such indebtedness be issued unless made redeemable in not more than five years and payable in not more than fifteen years from the date of the issue thereof; nor shall any such bond or indebtedness be incurred until approved by the President of the United States.

TOWN, CITY, AND COUNTY GOVERNMENT

SEC. 56. That the legislature may create counties and town and city municipalities within the Territory of Hawaii and provide for the government thereof.

ELECTIONS

EXEMPTION OF ELECTORS ON ELECTION DAY

SEC. 57. That every elector shall be privileged from arrest on election day during his attendance at election and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony.

SEC. 58. That no elector shall be so obliged to perform military duty on the day of election as to prevent his voting, except in time of war or public danger, or in case of absence from his place of residence in actual military service, in which case provision may be made by law for taking his vote.

METHOD OF VOTING FOR REPRESENTATIVES

SEC. 59. That each voter for representative may cast a vote for as many representatives as are to be elected from the representative district in which he is entitled to vote.

The required number of candidates receiving the highest number of votes in the respective representative districts shall be the representatives for such districts.

QUALIFICATIONS OF VOTERS FOR REPRESENTATIVES

SEC. 60. That in order to be qualified to vote for representatives a person shall—

First. Be a male citizen of the United States.

Second. Have resided in the Territory not less than one year preceding and in the representative district in which he offers to register not less than three months immediately preceding the time at which he offers to register.

Third. Have attained the age of twenty-one years.

Fourth. Prior to each regular election, during the time prescribed by law for registration, have caused his name to be entered on the register of voters for representatives for his district.

Fifth. Be able to speak, read, and write the English or Hawaiian language.

METHOD OF VOTING FOR SENATORS

SEC. 61. That each voter for senator may cast one vote for each senator to be elected from the senatorial district in which he is entitled to vote.

The required number of candidates receiving the highest number of votes in the respective senatorial districts shall be the senators for such district.

QUALIFICATIONS OF VOTERS FOR SENATORS AND IN ALL OTHER ELECTIONS

SEC. 62. That in order to be qualified to vote for senators and for voting in all other elections in the Territory of Hawaii a person must possess all the qualifications and be subject to all the conditions required by this Act of voters for representatives.

SEC. 63. That no person shall be allowed to vote who is in the Territory by reason of being in the Army or Navy or by reason of being attached to troops in the service of the United States.

SEC. 64. That the rules and regulations for administering oaths and holding elections set forth in Ballou's Compilation, Civil Laws, Appendix, and the list of registering districts and precincts appended, are continued in force with the following changes, to wit:

Strike out the preliminary proclamation and sections one to twenty-six, inclusive, sections thirty and thirty-nine, the second and third paragraphs of section forty-eight, the second paragraph of section fifty, and sections sixty-two, sixty-three, and sixty-six, second paragraph of section one hundred.

In section twenty-nine strike out all after the word "Niihau" and in lieu thereof insert: "The boards of registration existing at the date of the approval of this Act shall go out of office, and new boards, which shall consist of three members each, shall be appointed by the governor, by and with the advice and consent of the senate, whose terms of office shall be four years. Appointments made by the governor when the senate is not in session shall be valid until the succeeding meeting of that body."

In section thirty-one strike out "the first day of April and the thirtieth day of June, in the year eighteen hundred and ninety-seven," and insert in lieu thereof "the last day of August and the tenth day of October, in the year nineteen hundred."

Strike out the words "and the detailed record" in sections fifty-two and one hundred and twelve.

Strike out "marshal" wherever it occurs and insert in lieu thereof "high sheriff."

Strike out of section fifty-three the words "except as provided in section one hundred and fourteen hereof."

In sections fifty-three, fifty-four, fifty-six, fifty-seven, fifty-nine, sixty, seventy-one, seventy-five, eighty-six, ninety-two, ninety-three, ninety-four, ninety-five, one hundred and eleven, one hundred and twelve, and one hundred and thirteen striks out the words "minister" and "minister of the interior" wherever they occur and insert in lieu thereof the words "secretary of the Territory."

In section fifty-six, paragraph three, strike out "interior office" and insert "office of the secretary of the Territory."

In section fifty-six, first paragraph, after the words "candidate for election" insert "to the legislature;" and in the last paragraph strike out the word "only."

Strike out the word "elective" in section sixty-four.

In sections twenty-seven, sixty-four, sixty-five, sixty-eight, seventy, and seventy-two strike out the words "minister of the interior" or "minister" wherever they occur and insert in lieu thereof the word "governor."

Amend section sixty-seven so that it will read: "At least forty days before any election the governor shall issue an election proclamation and transmit copies of the same to the several boards of inspectors throughout the Territory, or where such election is to be held."

In section seventy-five strike out the word "perfectly," and in section seventy-six strike out "in" and insert "on."

In section one hundred and twelve strike out "interior department" and insert in lieu thereof "office of the secretary of the Territory."

In section one hundred and fourteen strike out the word "Republic" wherever it occurs and insert in lieu thereof "Territory."

In section one hundred and fifteen strike out the words "minister" and "minister of the interior" and insert in lieu thereof "treasurer," and strike out all after the word "refreshments:" *Provided, however*, That for the holding of a special election before the first general election the governor may prescribe the time during which the boards of registration shall meet and the registration be made.

SEC. 65. That the legislature of the Territory may from time to time establish and alter the boundaries of election districts and voting precincts and apportion the senators and representatives to be elected from such districts.

Chapter III.—The Executive

THE EXECUTIVE POWER

Sec. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall be commander in chief of the militia thereof; may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon.

ENFORCEMENT OF LAW

Sec. 67. That the governor shall be responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii within the said Territory, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory, and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory, or any part thereof, under martial law until communication can be had with the President and his decision therein made known.

GENERAL POWERS OF THE GOVERNOR

Sec. 68. That all the powers and duties which, by the laws of Hawaii, are conferred upon or required of the President or any minister of the Republic of Hawaii (acting alone or in connection with any other officer or person or body) or the cabinet or executive council, and not inconsistent with the Constitution or laws of the United States, are conferred upon and required of the governor of the Territory of Hawaii, unless otherwise provided.

SECRETARY OF THE TERRITORY

Sec. 69. That there shall be a secretary of the said Territory, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and who shall be a citizen of the Territory of Hawaii and hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall record and preserve all the laws and proceedings of the legislature and all acts and proceedings of the governor, and promulgate proclamations of the governor. He shall, within thirty days after the end of each session of the legislature, transmit to the President, the President of the Senate, and the Speaker of the House of Representatives of the United States one copy each of the laws and journals of such session. He shall transmit to the President, semiannually, on the first days of January and July, a copy of the

executive proceedings, and shall perform such other duties as are prescribed in this Act or as may be required of him by the legislature of Hawaii.

ACTING GOVERNOR IN CERTAIN CONTINGENCIES

SEC. 70. That in case of the death, removal, resignation, or disability of the governor, or his absence from the Territory, the secretary shall exercise all the powers and perform all the duties of governor during such vacancy, disability, or absence, or until another governor is appointed and qualified.

ATTORNEY-GENERAL

SEC. 71. That there shall be an attorney-general, who shall have the powers and duties of the attorney-general and those of the powers and duties of the minister of the interior which relate to prisons, prisoners, and prison inspectors, notaries public, and escheat of lands under the laws of Hawaii, except as changed by this Act and subject to modification by the legislature.

TREASURER

SEC. 72. That there shall be a treasurer, who shall have the powers and duties of the minister of finance and those of the powers and duties of the minister of the interior which relate to licenses, corporations, companies, and partnerships, business conducted by married women, newspapers, registry of conveyances, and registration of prints, labels, and trade-marks under the laws of Hawaii, except as changed in this Act and subject to modification by the legislature.

COMMISSIONER OF PUBLIC LANDS

SEC. 73. That the laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land-commission awards, except as changed by this Act, shall continue in force until Congress shall otherwise provide. That, subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii between the seventh day of July, eighteen hundred and ninety-eight, and the twenty-eighth day of September, eighteen hundred and ninety-nine, are hereby ratified and confirmed. In said laws "land patent" shall be substituted for "royal patent;" "commissioner of public lands" for "minister of the interior," "agent of public lands," and "commissioners of public lands," or their equivalents; and the words "that I am a citizen of the United States," or "that I have declared my intention to become a citizen of the United States, as required by law," for the words "that I am a citizen by birth (or naturalization) of the Republic of Hawaii," or "that I have received letters of denization under the Republic of Hawaii," or "that I have received a certificate of special right of citizenship from the Republic of Hawaii." And no lease of agricultural land shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than five years until Congress shall otherwise direct. All funds arising from the sale or lease or other disposal

of such lands shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight: *Provided*, There shall be excepted from the provisions of this section all lands heretofore set apart, or reserved, by Executive order, or orders, by the President of the United States.

COMMISSIONER OF AGRICULTURE AND FORESTRY

SEC. 74. That the laws of Hawaii relating to agriculture and forestry, except as changed by this Act, shall continue in force, subject to modification by Congress or the legislature. In said laws "commissioner of agriculture and forestry" shall be substituted, respectively, for "bureau," "bureau of agriculture and forestry," "commissioner," "commissioner of agriculture," and "commissioners for the island of Oahu."

SUPERINTENDENT OF PUBLIC WORKS

SEC. 75. That there shall be a superintendent of public works, who shall have the powers and duties of the superintendent of public works and those of the powers and duties of the minister of the Interior which relate to streets and highways, harbor improvements, wharves, landings, waterworks, railways, electric light and power, telephone lines, fences, pounds, brands, weights and measures, fires and fireproof buildings, explosives, eminent domain, public works, markets, buildings, parks and cemeteries, and other grounds and lands now under the control and management of the minister of the interior, and those of the powers and duties of the minister of finance and collector-general which relate to pilots and harbor masters under the laws of Hawaii, except as changed by this Act and subject to modification by the legislature. In said laws the word "legislature" shall be substituted for "councils" and the words "the circuit court" for "the Hawaiian Postal Savings Bank."

SUPERINTENDENT OF PUBLIC INSTRUCTION

SEC. 76. That there shall be a superintendent of public instruction, who shall have the powers and perform the duties conferred upon and required of the minister of public instruction by the laws of Hawaii as amended by this Act, and subject to modification by the legislature.

It shall be the duty of the United States Commissioner of Labor to collect, assort, arrange, and present in annual reports statistical details relating to all departments of labor in the Territory of Hawaii, especially in relation to the commercial, industrial, social, educational, and sanitary condition of the laboring classes, and to all such other subjects as Congress may, by law, direct. The said commissioner is especially charged to ascertain, at as early a date as possible, and as often thereafter as such information may be required, the highest, lowest, and average number of employees engaged in the various industries in the Territory, to be classified as to nativity, sex, hours of labor, and conditions of employment, and to report the same to Congress.

AUDITOR AND DEPUTY AUDITOR

SEC. 77. That there shall be an auditor and deputy auditor, who shall have the powers and duties conferred upon and required of the auditor-general and deputy auditor-general, respectively, by act thirty-nine of the Session Laws, as amended by this Act, subject to modification by the legislature. In said act "officer" shall be substituted for "minister" where used without other designation.

SURVEYOR

SEC. 78. That there shall be a surveyor, who shall have the powers and duties heretofore attached to the surveyor-general, except such as relate to the geodetic survey of the Hawaiian Islands.

HIGH SHERIFF

SEC. 79. That there shall be a high sheriff and deputies, who shall have the powers and duties of the marshal and deputies of the Republic of Hawaii under the laws of Hawaii, except as changed by this Act, and subject to modification by the legislature.

APPOINTMENT, REMOVAL, TENURE, AND SALARIES OF OFFICERS

SEC. 80. That the President shall nominate and, by and with the advice and consent of the Senate, appoint the chief justice and justices of the supreme court, the judges of the circuit courts, who shall hold their respective offices for the term of four years, unless sooner removed by the President; and the governor shall nominate and, by and with the advice and consent of the senate of the Territory of Hawaii, appoint the attorney-general, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, high sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law; and he may make such appointments when the senate is not in session by granting commissions, which shall, unless such appointments are confirmed, expire at the end of the next session of the senate. He may, by and with the advice and consent of the senate of the Territory of Hawaii, remove from office any of such officers. All such officers shall hold office for four years and until their successors are appointed and qualified, unless sooner removed, except the commissioners of public instruction and the members of said boards, whose terms of office shall be as provided by the laws of the Territory of Hawaii.

The manner of appointment and removal and the tenure of all other officers shall be as provided by law; and the governor may appoint or remove any officer whose appointment or removal is not otherwise provided for.

The salaries of all officers other than those appointed by the President shall be as provided by the legislature, but those of the chief justice and the justices of the supreme court and judges of the circuit courts shall not be diminished during their term of office.

All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii.

All persons holding office in the Hawaiian Islands at the time this Act takes effect shall continue to hold their respective offices until their successors are appointed and qualified, but not beyond the end of the first session of the senate of the Territory of Hawaii unless reappointed as herein provided.

Chapter IV

THE JUDICIARY

Sec. 81. That the judicial power of the Territory shall be vested in one supreme court, circuit courts, and in such inferior courts as the legislature may from time to time establish. And until the legislature shall otherwise provide, the laws of Hawaii heretofore in force concerning the several courts and their jurisdiction and procedure shall continue in force except as herein otherwise provided.

SUPREME COURT

Sec. 82. That the supreme court shall consist of a chief justice and two associate justices, who shall be citizens of the Territory of Hawaii and shall be appointed by the President of the United States, by and with the advice and consent of the Senate of the United States, and may be removed by the President: *Provided, however*, That in case of the disqualification or absence of any justice thereof, in any cause pending before the court, on the trial and determination of said cause his place shall be filled as provided by law.

LAWS CONTINUED IN FORCE

Sec. 83. That the laws of Hawaii relative to the judicial department, including civil and criminal procedure, except as amended by this Act, are continued in force, subject to modification by Congress, or the legislature. The provisions of said laws or any laws of the Republic of Hawaii which require juries to be composed of aliens or foreigners only, or to be constituted by impaneling natives of Hawaii only, in civil and criminal cases specified in said laws, are repealed, and all juries shall hereafter be constituted without reference to the race or place of nativity of the jurors; but no person who is not a male citizen of the United States and twenty-one years of age and who can not understandingly speak, read, and write the English language shall be a qualified juror or grand juror in the Territory of Hawaii. No person shall be convicted in any criminal case except by unanimouse verdict of the jury. No plaintiff or defendant in any suit or proceeding in a court of the Territory of Hawaii shall be entitled to a trial by a jury impaneled exclusively from persons of any race. Until otherwise provided by the legislature of the Territory, grand juries may be drawn in the manner provided by the Hawaiian statutes for drawing petty juries, and shall sit at such times as the circuit judges of the respective circuits shall direct; the number of grand jurors in each circuit shall be not less than thirteen, and the method of the presentation of cases to said grand jurors shall be prescribed

by the supreme court of the Territory of Hawaii. The several circuit courts may subpœna witnesses to appear before the grand jury in like manner as they subpœna witnesses to appear before their respective courts.

DISQUALIFICATION BY RELATIONSHIP, PECUNIARY INTEREST, OR PREVIOUS JUDGMENT

SEC. 84. That no person shall sit as a judge or juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the said judge or juror may have, either directly or through such relative, any pecuniary interest. No judge shall sit on an appeal, or new trial, in any case, in which he may have given a previous judgment.

CHAPTER V.—UNITED STATES OFFICERS

DELEGATE TO CONGRESS

SEC. 85. That a Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the voters qualified to vote for members of the house of representatives of the legislature; such Delegate shall possess the qualifications necessary for membership of the senate of the legislature of Hawaii. The times, places, and manner of holding elections shall be as fixed by law. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting.

FEDERAL COURT

SEC. 86. That there shall be established in said Territory a district court to consist of one judge, who shall reside therein and be called the district judge. The President of the United States, by and with the advice and consent of the Senate of the United States, shall appoint a district judge, a district attorney, and a marshal of the United States for the said district, and said judge, attorney, and marshal shall hold office for six years unless sooner removed by the President. Said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and said judge, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States. Writs of error and appeals from said district court shall be had and allowed to the circuit court of appeals in the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeals as provided by law, and the laws of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in

such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October and at Hilo on the last Wednesday in January of each year; and special terms may be held at such times and places in said district as the said judge may deem expedient. The said district judge shall appoint a clerk for said court at a salary of three thousand dollars per annum, and shall appoint a reporter of said court at a salary of twelve hundred dollars per annum.

INTERNAL-REVENUE DISTRICT

SEC. 87. That the Territory of Hawaii shall constitute a district for the collection of the internal revenue of the United States, with a collector, whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary of the Treasury shall direct.

CUSTOMS DISTRICT

SEC. 88. That the Territory of Hawaii shall comprise a customs district of the United States, with ports of entry and delivery at Honolulu, Hilo, Mahukona, and Kahului.

CHAPTER VI.—MISCELLANEOUS

REVENUES FROM WHARVES

SEC. 89. That until further provision is made by Congress the wharves and landings constructed or controlled by the Republic of Hawaii on any seacoast, bay, roadstead, or harbor shall remain under the control of the government of the Territory of Hawaii, which shall receive and enjoy all revenues derived therefrom, on condition that said property shall be kept in good condition for the use and convenience of commerce, but no tolls or charges shall be made by the government of the Territory of Hawaii for the use of any such property by the United States, or by any vessel of war, tug, revenue cutter, or other boat or transport in the service of the United States.

SEC. 90. That Hawaiian postage stamps, postal cards, and stamped envelopes at the post-offices of the Hawaiian Islands when this Act takes effect shall not be sold, but, together with those that shall thereafter be received at such offices as herein provided, shall be canceled under the direction of the Postmaster-General of the United States; those previously sold and uncanceled shall, if presented at such offices within six months after this Act takes effect, be received at their face value in exchange for postage stamps, postal cards, and stamped envelopes of the United States of the same aggregate face value and, so far as may be, of such denominations as desired.

SEC. 91. That the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the governor of

Hawaii. And all moneys in the Hawaiian treasury, and all the revenues and other property acquired by the Republic of Hawaii since said cession shall be and remain the property of the Territory of Hawaii.

SEC. 92. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, five thousand dollars; the secretary of the Territory, three thousand dollars; the chief justice of the supreme court of the Territory, five thousand five hundred dollars, and the associate justices of the supreme court, five thousand dollars each, and the judges of the circuit courts, three thousand dollars each. The salaries of the said chief justice and the associate justices of the supreme court, and the judges of the circuit courts as above provided shall be paid by the United States; the United States district judge, five thousand dollars; the United States marshal, two thousand five hundred dollars; the United States district attorney, three thousand dollars. And the governor shall receive annually, in addition to his salary, the sum of five hundred dollars for stationery, postage, and incidentals; also his traveling expenses while absent from the capital on official business, and the sum of two thousand dollars annually for his private secretary.

IMPORTS FROM HAWAII INTO THE UNITED STATES

SEC. 93. That imports from any of the Hawaiian Islands, into any State or any other Territory of the United States, of any dutiable articles not the growth, production, or manufacture of said islands, and imported into them from any foreign country after July seventh, eighteen hundred and ninety-eight, and before this Act takes effect, shall pay the same duties that are imposed on the same articles when imported into the United States from any foreign country.

INVESTIGATION OF FISHERIES

SEC. 94. That the Commissioner of Fish and Fisheries of the United States is empowered and required to examine into the entire subject of fisheries and the laws relating to the fishing rights in the Territory of Hawaii, and report to the President touching the same, and to recommend such changes in said laws as he shall see fit.

REPEAL OF LAWS CONFERRING EXCLUSIVE FISHING RIGHTS

SEC. 95. That all laws of the Republic of Hawaii which confer exclusive fishing rights upon any person or persons are hereby repealed, and all fisheries in the sea waters of the Territory of Hawaii not included in any fish pond or artificial inclosure shall be free to all citizens of the United States, subject, however, to vested rights; but no such vested right shall be valid after three years from the taking effect of this Act unless established as hereinafter provided.

PROCEEDINGS FOR OPENING FISHERIES TO CITIZENS

SEC. 96. That any person who claims a private right to any such fishery shall, within two years after th taking effect of this Act, file his petition in a circuit court of the Territory of Hawaii, setting forth

his claim to such fishing right, service of which petition shall be made upon the attorney-general, who shall conduct the case for the Territory, and such case shall be conducted as an ordinary action at law.

That if such fishing right be established, the attorney-general of the Territory of Hawaii may proceed, in such manner as may be provided by law for the condemnation of property for public use, to condemn such private right of fishing to the use of the citizens of the United States upon making just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the Territory of Hawaii not otherwise appropriated.

QUARANTINE

SEC. 97. That quarantine stations shall be established at such places in the Territory of Hawaii as the Supervising Surgeon-General of the Marine-Hospital Service of the United States shall direct, and the quarantine regulations for said islands relating to the importation of diseases from other countries shall be under the control of the Government of the United States. The quarantine station and grounds at the harbor of Honolulu, together with all the public property belonging to that service, shall be transferred to the Marine-Hospital Service of the United States, and said quarantine grounds shall continue to be so used and employed until the station is changed to other grounds which may be selected by order of the Secretary of the Treasury.

The health laws of the government of Hawaii relating to the harbor of Honolulu and other harbors and inlets from the sea and to the internal control of the health of the islands shall remain in the jurisdiction of the government of the Territory of Hawaii, subject to the quarantine laws and regulations of the United States.

SEC. 98. That all vessels carrying Hawaiian registers on the twelfth day of August, eighteen hundred and ninety-eight, and which were owned bona fide by citizens of the United States, or the citizens of Hawaii, together with the following-named vessels claiming Hawaiian register, Star of France, Euterpe, Star of Russia, Falls of Clyde, and Wilscott, shall be entitled to be registered as American vessels, with the benefits and privileges appertaining thereto, and the coasting trade between the islands aforesaid and any other portion of the United States, shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts.

SEC. 99. That the portion of the public domain heretofore known as Crown land is hereby declared to have been, on the twelfth day of August, eighteen hundred and ninety-eight, and prior thereto, the property of the Hawaiian government, and to be free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law.

SEC. 100. That for the purposes of naturalization under the laws of the United States residence in the Hawaiian Islands prior to the taking effect of this Act shall be deemed equivalent to residence in the United States and in the Territory of Hawaii, and the requirement of a previous declaration of intention to become a citizen of the United States and to renounce former allegiance shall not apply to persons who have resided in said islands at least five years prior to the taking effect of this Act; but all other provisions of the laws of the United

States relating to naturalization shall, so far as applicable, apply to persons in the said islands.

SEC. 101. That Chinese in the Hawaiian Islands when this Act takes effect may within one year thereafter obtain certificates of residence as required by "An Act to prohibit the coming of Chinese persons into the United States," approved May fifth, eighteen hundred and ninety-two, as amended by an Act approved November third, eighteen hundred and ninety-three, entitled "An Act to amend an Act entitled 'An Act to prohibit the coming of Chinese persons into the United States,' approved May fifth, eighteen hundred and ninety-two," and until the expiration of said year shall not be deemed to be unlawfully in the United States if found therein without such certificates: *Provided, however*, That no Chinese laborer, whether he shall hold such certificate or not, shall be allowed to enter any State, Territory, or District of the United States from the Hawaiian Islands.

SEC. 102. That the laws of Hawaii relating to the establishment and conduct of any postal savings bank or institution are hereby abolished. And the Secretary of the Treasury, in the execution of the agreement of the United States as expressed in an Act entitled "Joint Resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall pay the amounts on deposit in the Hawaiian Postal Savings Bank to the persons entitled thereto, according to their respective rights, and he shall make all needful orders, rules, and regulations for paying such persons and for notifying such persons to present their demands for payment. So much money as is necessary to pay said demands is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be available on and after the first day of July, nineteen hundred, when such payments shall begin, and none of said demands shall bear interest after said date, and no deposit shall be made in said bank after said date. Said demands of such persons shall be certified to by the chief executive of Hawaii as being genuine and due to the persons presenting the same, and his certificate shall be sealed with the official seal of the Territory, and countersigned by its secretary, and shall be approved by the Secretary of the Interior, who shall draw his warrant for the amount due upon the Treasurer of the United States, and when the same are so paid no further liabilities shall exist in respect of the same against the governments of the United States or of Hawaii.

SEC. 103. That any money of the Hawaiian Postal Savings Bank that shall remain unpaid to the persons entitled thereto on the first day of July, nineteen hundred and one, and any assets of said bank shall be turned over by the government of Hawaii to the Treasurer of the United States, and the Secretary of the Treasury shall cause an account to be stated, as of said date, between such government of Hawaii and the United States in respect to said Hawaiian Postal Savings Bank.

SEC. 104. This Act shall take effect forty-five days from and after the date of the approval thereof, excepting only as to section fifty-two, relating to appropriations, which shall take effect upon such approval.

Approved, April 30, 1900.

IDAHO.

For organic acts issued before 1863 relating to the land now included within Idaho see in this work:

Convention with Great Britain, 1818 (Oregon, p. 2983).
Convention with Russia, 1824 (Oregon, p. 2983).
Treaty with Great Britain, 1846 (Oregon, p. 2985).
Territorial Government of Oregon, 1848 (Oregon, p. 2986).
Territorial Government of Washington, 1853 (Washington, p. 3963).

TEMPORARY GOVERNMENT FOR IDAHO—1863[a]

[THIRTY-SEVENTH CONGRESS, THIRD SESSION]

An Act to provide a temporary government for the Territory of Idaho

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, to wit: Beginning at a point in the middle channel of the Snake River where the northern boundary of Oregon intersects the same; then follow down said channel of Snake River to a point opposite the mouth of the Kooskooskia, or Clear Water River; thence due north to the forty-ninth parallel of latitude; thence east along said parallel to the twenty-seventh degree of longitude west of Washington; thence south along said degree of longitude to the northern boundary of Colorado Territory; thence west along said boundary to the thirty-third degree of longitude west of Washington; thence north along said degree to the forty-second parallel of latitude; thence west along said parallel to the eastern boundary of the State of Oregon; thence north along said boundary to place of beginning. And the same is hereby created into a temporary government, by the name of the Territory of Idaho: *Provided*, That

[a] For other statutes of an organic nature relating to Idaho subsequent to 1863 see the act to provide for reapportionment of representatives, June 20, 1864; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to reapportion Territory for judicial purposes, and to regulate sessions of legislative assembly and elections and terms of members, March 2, 1867; to regulate elections in, March 3, 1869; to repeal law of taxing persons of Mongolian race engaged in mining, July 15, 1870; to enlarge jurisdiction of probate courts in, December 13, 1870; to regulate elections in, May 9, 1872; to impower legislature to pass general laws for the incorporation of certain companies, June 10, 1872; to limit the duration of legislative sessions and to fix the pay of members, January 23, 1873; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to reapportion members of legislature, June 3, 1880; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to prohibit various forms of special legislation, July 30, 1886; to permit erection of counties, July 19, 1888.

nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory or changing its boundaries in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other state or territory of the United States: *Provided, further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include and territory which, by treaty with any Indian tribes, is not without the consent of said tribe to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Idaho, until said tribe shall signify their assent to the President of the United States to be included within said Territory, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Idaho shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia, and superintendent of Indian affairs thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieve for offences against the laws of the United States until the decision of the President of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and shall hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semiannually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives for the use of Congress; and in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made as nearly equal as practicable among the several counties or districts for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district or county, or counties, for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner both as to the persons who shall superintend such elections and the returns thereof, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation to the several counties or districts to the council and the house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been an actual resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to

any office within the said Territory; but the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said Territory shall, before it becomes a law, be presented to the governor of the Territory; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of Congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Idaho. The governor shall nominate, and by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term. But this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist

of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations, as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decision of said supreme court shall be allowed, and may be taken to the supreme court of the United States in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Washington Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Washington. There shall also be a marshal for

the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be appointed by the President of the United States, by and with the advice and consent of the Senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively, take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and the associate justices, and all civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars, the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars, the secretary shall receive an annual salary of two thousand dollars; the said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually travelled route, and an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms and doorkeeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative

assembly annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum to be expended by the governor to defray the contingent expenses of the Territory, including the salary of the clerk of the executive department; and there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Idaho shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed, except by an act of the said assembly duly passed, and which shall be approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said House of Representatives; but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Idaho as elsewhere within the United States.

SEC. 14. *And be it further enacted*, That when the lands in the said Territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said

territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the states and territories hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts; and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That all officers to be appointed by the President of the United States, by and with the advice and consent of the Senate, for the Territory of Idaho, who, by virtue of the provisions of any law now existing, or which may be enacted by Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and in such manner as the Secretary of the Treasury may prescribe.

SEC. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the Government of the United States with the Indian tribes inhabiting the Territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Approved, March 3, 1863.

TEMPORARY GOVERNMENT FOR IDAHO—1864 [a]

[THIRTY-EIGHTH CONGRESS, FIRST SESSION]

An Act to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March third

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the governor of the Territory of Idaho be, and he is hereby, authorized to reapportion said territory for the election of members of the council and house of representatives of the legislative assembly: *Provided*, That said apportionment shall be based on an enumeration of the inhabitants and qualified voters of the several counties and districts of the territory, to be taken by such persons and in such mode as the governor shall designate and appoint, and the persons so appointed shall receive a reasonable compensation therefor, to be paid out of the territorial treasury: *Provided, further*, That this act shall not be construed to divest any member of the council elected at the first election

[a] Statutes at Large, Vol. 15, pp. 142–3.

in said territory, of any rights he may have acquired by virtue of said election, who was elected from any county or district within the present limits of the Territory of Idaho.

SEC. 2. *And be it further enacted*, That the annual election in said territory for the election of all officers provided for by the laws of said territory, for the year eighteen hundred and sixty-four, shall be held at such places as is now provided by law, and such other places as the governor may direct on the second Monday of October.

Approved, June 20, 1864.

ACT FOR ADMISSION OF IDAHO—1890

[FIFTY-FIRST CONGRESS, FIRST SESSION]

An Act to provide for the admission of the State of Idaho into the Union

Whereas, The people of the Territory of Idaho did, on the fourth day of July, eighteen hundred and eighty-nine, by a convention of delegates called and assembled for that purpose, form for themselves a constitution, which constitution was ratified and adopted by the people of said Territory at an election held therefor on the first Tuesday in November, eighteen hundred and eighty-nine, which constitution is republican in form and is in conformity with the Constitution of the United States; and

Whereas, Said convention and the people of said Territory have asked the admission of said Territory into the Union of States on an equal footing with the original States in all respects whatever: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Idaho is hereby declared to be a State of the United States of America, and is hereby declared admitted into the Union on an equal footing with the original States in all respects whatever; and that the constitution which the people of Idaho have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed.

SEC. 2. That the said State shall consist of all the Territory described as follows: Beginning at the intersection of the thirty-ninth meridian with the boundary line between the United States and the British Possessions, then following said meridian south until it reaches the summit of the Bitter Root Mountains; thence southeastward along the crest of the Bitter Root range and the continental divide until it intersects the meridian of thirty-four degrees of longitude; thence southward on this meridian to the forty second parallel of latitude; thence west on this parallel of latitude to its intersection with a meridian drawn through the mouth of the Owyhee River; north on this meridian to the mouth of the Owyhee River; thence down the mid-channel of the Snake River to the mouth of the Clearwater River; and thence north on the meridian which passes through the mouth of the Clearwater to the boundary-line between the United States and the British Possessions, and east on said boundary-line to the place of beginning.

SEC. 3. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in

the House of Representatives of the United States and the election of the Representatives to the Fifty-first Congress and the Representative to the Fifty-second Congress shall take place at the time and be conducted and certified in the same manner as is provided in the constitution of the State for the election of State, district, and other officers in the first instance. The law of the Territory of Idaho for the registration of voters shall apply to the first election of State, District, and other officers held after the admission of the State of Idaho. County and precinct officers elected at the first election held after the admission of the State Idaho, shall assume the duties of their respective officers on the second Monday of January eighteen hundred and ninety-one.

SEC. 4. That sections numbered sixteen and thirty-six in every township of said State, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the legislature may provide, with the approval of the Secretary of the Interior.

SEC. 5. That all lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislature shall prescribe, be leased for periods of not more than five years, and such lands shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 6. That fifty sections of the unappropriated public lands within said State, to be selected and located in legal subdivisions as provided in section four of this act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings at the capital of said State for legislative, executive, and judicial purposes.

SEC. 7. That five per centum of the proceeds of the sales of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 8. That the lands granted to the Territory of Idaho by the act of February eighteenth, eighteen hundred and eighty-one, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes," are hereby vested in the State of Idaho to the extent of the full quantity of seventy-two sections to said State, and any portion of said lands that may not have been selected by said Territory of Idaho may be selected by the said State; but said act of February eighteenth, eighteen hundred and eighty-one, shall be so amended as to provide that none of said lands shall be sold for less than ten dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said State,

and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 9. That the penitentiary at Boise City, Idaho, and all lands connected therewith and set apart and reserved therefor, and unexpended appropriations of money therefor, and the personal property of the United States now being in the Territory of Idaho, which has been in use in the said Territory in the administration of the Territorial government, including books and records and the property used at the constitutional convention which convened at Boise City, in the month of July, eighteen hundred and eighty-nine, are hereby granted and donated to the State of Idaho.

SEC. 10. That ninety thousand acres of land, to be selected and located as provided in section four of this act, are hereby granted to said State for the use and support of an agricultural college in said State, as provided in the acts of Congress making donations of lands for such purposes.

SEC. 11. That in lieu of the grant of land for purposes of internal improvement made to the new States by the eighth section of the act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to the State of Idaho, and in lieu of any claim or demand by the said State under the act of September twenty-eighth eighteen hundred and fifty, and section twenty four hundred and seventy nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the State of Idaho, and in lieu of any grant of saline lands to said State the following grants of lands are hereby made, to wit: To the State of Idaho: For the establishment and maintenance of a scientific school, one hundred thousand acres: For State normal schools, one hundred thousand acres; for the support and maintenance of the insane-asylum located at Blackfoot, fifty thousand acres; for the support and maintenance of the State University located at Moscow, fifty thousand acres; for the support and maintenance of the penitentiary located at Boise City, fifty thousand acres; for other State, charitable, educational, penal, and reformatory institutions, one hundred and fifty thousand acres. None of the lands granted by this act shall be sold for less than ten dollars an acre.

SEC. 12. That the State of Idaho shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purpose herein mentioned, in such manner as the legislature of the State may provide.

SEC. 13. That all mineral lands shall be exempted from the grants by this act. But if sections sixteen and thirty-six, or any subdivision, or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, the said State is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said State, in lieu thereof, for the use and the benefit of the common schools of said State.

SEC. 14. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed unreserved, and unappropriated public lands of the United States within the limits of the State entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said State the number of acres heretofore donated by Congress to said Territory for similar objects.

SEC. 15. That the sum of twenty-eight thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying the expenses of said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislatures, and for elections held therefor and thereunder. Any money hereby appropriated not necessary for such purpose shall be covered into the Treasury of the United States.

SEC. 16. That the said State shall constitute a judicial district, the name thereof to be the same as the name of the State; and the circuit and district courts therefor shall be held at the capital of the State for the time being, and the said district shall, for judicial purposes, until otherwise provided, be attached to the ninth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of the said district shall receive a yearly salary of three thousand five hundred dollars, payable in four equal installments, on the first days of January, April, July, and October of each year, and shall reside in the district. There shall be appointed clerks of said courts, in the said district, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held in said district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Oregon.

SEC. 17. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State

from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme court of the Territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the Union.

SEC. 18. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of the said Territory at the time of the admission into the Union of the State of Idaho and arising within the limits of such State, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territory; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of said Territory at the time of the admission of such Territory into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any Territorial court in said Territory, shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded within the proper United States circuit, district, or State court as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings in which the United States is not a party transfers shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper State courts.

SEC. 19. That from and after the admission of said State into the Union, in pursuance of this act, the laws of the United States not locally inapplicable shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 20. That the legislature of the said State may elect two Senators of the United States as is provided by the constitution of said State, and the Senators and Representative of said State shall be entitled to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

SEC. 21. That until the State officers are elected and qualified under the provisions of the constitution of said State, the officers of the Territory of Idaho shall discharge the duties of their respective

offices under the constitution of the State, in the manner and form as therein provided; and all laws in force made by said Territory, at the time of its admission into the Union, shall be in force in said State, except as modified or changed by this act or by the constitution of the State.

SEC. 22. That all acts or parts of acts in conflict with the provisions of this act, whether passed by legislature of said Territory or by Congress, are hereby repealed.

Approved, July 3, 1890.

CONSTITUTION OF IDAHO—1889 [a]

PREAMBLE

We, the people of the State of Idaho, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All men are by nature free and equal and have certain inalienable rights, among which are enjoying and defending life and liberty, acquiring, possessing, and protecting property, pursuing happiness, and securing safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same whenever they may deem it necessary, and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature.

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[a] Verified by "The Constitution of the State of Idaho and the act providing for the admission of the State. Prepared and published by A. J. Pinkham, Secretary of State. Under authority of House Joint Resolution No. 3. Boise City, Idaho: The Statesman Printing Co., 1891.

DEPARTMENT OF STATE,
SECRETARY'S OFFICE.

I, A. J. Pinkham, Secretary of State of the State of Idaho, do hereby certify the following to be true and correct copies of the Constitution of the State of Idaho, adopted in Convention, August 6, 1889, and the Act of Congress admitting the State of Idaho into the Union of States, approved July 3, 1890, as appear of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State. Done at the City of Boise, the Capital of Idaho, this Nineteenth day of February, in the year of our Lord One Thousand Eight Hundred and Ninety-one, and of the Independence of the United States of America, the One Hundred and Fifteenth.

[SEAL.]

A. J. PINKHAM,
Secretary of State."

Also for debates and proceedings in this convention see "Idaho Daily Statesman," June 8 to August 11, 1889, and "The Sioux City Journal, Iowa," July 4 to October 8, 1889.

SEC. 3. The State of Idaho is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The exercise and enjoyment of religious faith and worship shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, or excuse acts of licentiousness or justify polygamous or other pernicious practices, inconsistent with morality or the peace or safety of the State; nor to permit any person, organization, or association to directly or indirectly aid or abet, counsel or advise, any person to commit the crime of bigamy or polygamy, or any other crime. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination, or pay tithes against his consent; nor shall any preference be given by law to any religious denomination or mode of worship. Bigamy and polygamy are forever prohibited in the State, and the legislature shall provide by law for the punishment of such crimes.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless, in case of rebellion or invasion, the public safety requires it, and then only in such manner as shall be prescribed by law.

SEC. 6. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 7. The right of trial by jury shall remain inviolate; but in civil actions three-fourths of the jury may render a verdict, and the legislature may provide that in all cases of misdemeanors five-sixths of the jury may render a verdict. A trial by jury may be waived in all criminal cases not amounting to felony by the consent of both parties, expressed in open court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.

SEC. 8. No person shall be held to answer for any felony or criminal offense of any grade, unless on presentment or indictment of a grand jury or on information of the public prosecutor, after a commitment by a magistrate, except in cases of impeachment, in cases cognizable by probate courts or by justices of the peace, and in cases arising in the militia when in actual service in time of war or public danger: *Provided*, That a grand jury may be summoned upon the order of the district court in the manner provided by law: *And provided further*, That after a charge has been ignored by a grand jury, no person shall be held to answer or for trial therefor upon information of the public prosecutor.

SEC. 9. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty.

SEC. 10. The people shall have the right to assemble in a peaceable manner to consult for their common good; to instruct their representatives, and to petition the Legislature for the redress of grievances.

SEC. 11. The people have the right to bear arms for their security

and defense; but the Legislature shall regulate the exercise of this right by law.

SEC. 12. The military shall be subordinate to the civil power; and no soldier in time of peace shall be quartered in any house without the consent of its owner, nor in time of war except in the manner prescribed by law.

SEC. 13. In all criminal prosecutions, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend in person and with counsel.

No person shall be twice put in jeopardy for the same offense; nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

SEC. 14. The necessary use of lands for the construction of reservoirs or storage basins, for the purposes of irrigation, or for rights of way for the construction of canals, ditches, flumes, or pipes, to convey water to the place of use, for any useful, beneficial, or necessary purpose, or for drainage; or for the drainage of mines, or the working thereof, by means of roads, railroads, tramways, cuts, tunnels, shafts, hoisting works, dumps, or other necessary means to their complete development, or any other use necessary to the complete development of the material resources of the State, or the preservation of the health of its inhabitants, is hereby declared to be a public use, and subject to the regulation and control of the State.

Private property may be taken for public use, but not until a just compensation, to be ascertained in a manner prescribed by law, shall be paid therefor.

SEC. 15. There shall be no imprisonment for debt in this State except in cases of fraud.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 17. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause, shown by affidavit, particularly describing the place to be searched and the person or thing to be seized.

SEC. 18. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character, and right and justice shall be administered without sale, denial, delay, or prejudice.

SEC. 19. No power, civil or military, shall at any time interfere with or prevent the free and lawful exercise of the right of suffrage.

SEC. 20. No property qualification shall ever be required for any person to vote or hold office except in school elections or elections creating indebtedness.

SEC. 21. This enumeration of rights shall not be construed to impair or deny other rights retained by the people.

ARTICLE II

DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of this State are divided into three distinct departments, the Legislative, Executive

and Judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others, except as in this Constitution expressly directed or permitted.

Article III

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of the State shall be vested in a senate and house of representatives. The enacting clause of every bill shall be as follows: "Be it enacted by the Legislature of the State of Idaho."

Sec. 2. The senate shall consist of eighteen members and the house of representatives of thirty-six members. The Legislature may increase the number of senators and representatives: *Provided*, The number of senators shall never exceed twenty-four, and the house of representatives shall never exceed sixty members. The senators and representatives shall be chosen by the electors of the respective counties or districts into which the State may from time to time be divided by law.

Sec. 3. The senators and representatives shall be elected for the term of two years, from and after the first day of December next following the general election.

Sec. 4. The members of the first legislature shall be apportioned to the several legislative districts of the State in proportion to the number of votes polled at the last general election for Delegate to Congress, and thereafter to be apportioned as may be provided by law: *Provided*, Each county shall be entitled to one representative.

Sec. 5. A senatorial or representative district, when more than one county shall constitute the same, shall be composed of contiguous counties and no county shall be divided in creating such districts.

Sec. 6. No person shall be a senator or representative who at the time of his election is not a citizen of the United States and an elector of this State, nor any one who has not been for one year next preceding his election an elector of the county or district whence he may be chosen.

Sec. 7. Senators and representatives, in all cases except for treason, felony, or breach of the peace, shall be privileged from arrest during the session of the Legislature, and in going to and returning from the same, and shall not be liable to any civil process during the session of the Legislature, nor during the ten days next before the commencement thereof; nor shall a member for words uttered in debate in either house be questioned in any other place.

Sec. 8. The sessions of the Legislature shall, after the first session thereof, be held biennially, at the Capital of the State, commencing on the first Monday after the first day of January, and every second year thereafter, unless a different day shall have been appointed by law, and at other times when convened by the Governor.

Sec. 9. Each house when assembled shall choose its own officers, judge of the election, qualifications, and returns of its own members, determine its own rules of proceeding, and sit upon its own adjournments; but neither house shall, without the concurrence of the other,

adjourn for more than three days, nor to any other place than that in which it may be sitting.

SEC. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as such house may provide. A quorum being in attendance, if either house fail to effect an organization within the first four days thereafter, the members of the house so failing shall be entitled to no compensation from the end of the said four days until an organization shall have been effected.

SEC. 11. Each house may, for good cause shown, with the concurrence of two-thirds of all the members, expel a member.

SEC. 12. The business of each house, and of the committee of the whole, shall be transacted openly and not in secret session.

SEC. 13. Each house shall keep a journal of its proceedings; and the yeas and nays of the members of either house an any question, shall, at the request of any three members present, be entered on the journal.

SEC. 14. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the house of representatives.

SEC. 15. No law shall be passed except by bill, nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same shall have been read on three several days in each house previous to the final vote thereon: *Provided*, In case of urgency, two-thirds of the house where such bill may be pending may, upon a vote of the yeas and nays, dispense with this provision. On the final passage of all bills they shall be read at length, section by section, and the vote shall be by yeas and nays upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members present.

SEC. 16. Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title: but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.

SEC. 17. Every act or joint resolution shall be plainly worded, avoiding as far as practicable the use of technical terms.

SEC. 18. No act shall be revised or amended by mere reference to its title, but the section as amended shall be set forth and published at full length.

SEC. 19. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and constables.

For the punishment of crimes and misdemeanors.

Regulating the practice of the courts of justice.

Providing for a change of venue in civil or criminal actions.

Granting divorces.

Changing the names of persons or places.

Authorizing the laying out, opening, altering, maintaining, working on, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, or any public grounds not owned by the State.

Summoning and impanneling grand and trial juries, and providing for their compensation.

Regulating county and township business, or the election of county and township officers.

For the assessment and collection of taxes.

Providing for and conducting elections, or designating the place of voting.

Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Extending the time for collection of taxes.

Giving effect to invalid deeds, leases or other instruments.

Refunding money paid into the State treasury.

Releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any person or corporation in this State, or any municipal corporation therein.

Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

Legalizing as against the State the unauthorized or invalid act of any officer.

Exempting property from taxation.

Changing county seats: unless the law authorizing the change shall require that two-thirds of the legal votes cast at a general or special election shall designate the place to which the county seat shall be changed: *Provided*, That the power to pass a special law shall cease as long as the legislature shall provide for such change by general law: *Provided further*, That no special law shall be passed for any one county oftener than once in six years.

Restoring to citizenship persons convicted of infamous crimes.

Regulating the interest on money.

Authorizing the creation, extension or impairing of liens.

Chartering or licensing ferries, bridges or roads.

Remitting fines, penalties or forfeitures.

Providing for the management of common schools.

Creating offices or prescribing the powers and duties of officers in counties, cities, townships, election districts, or school districts, except as in this Constitution otherwise provided.

Changing the law of descent or succession.

Authorizing the adoption or legitimization of children.

For limitation of civil or criminal actions.

Creating any corporation.

Creating, increasing or decreasing fees, percentages, or allowances of public officers during the term for which said officers are elected or appointed.

SEC. 20. The Legislature shall not authorize any lottery or gift enterprise under any pretense or for any purpose whatever.

SEC. 21. All bills or joint resolutions passed shall be signed by the presiding officers of the respective houses.

SEC. 22. No act shall take effect until sixty days from the end of the session at which the same shall have been passed, except in case

of emergency, which emergency shall be declared in the preamble or in the body of the law.

SEC. 23. Each member of the Legislature shall receive for his services a sum not exceeding five dollars per day from the commencement of the session, but such pay shall not exceed for each member, except the presiding officers, in the aggregate three hundred dollars for per diem allowances for any one session; and shall receive each the sum of ten cents per mile each way by the usual traveled route.

When convened in extra session by the Governor, they shall each receive five dollars per day; but no extra session shall continue for a longer period than twenty days, except in case of the first session of the Legislature. They shall receive such mileage as is allowed for regular sessions. The presiding officers of the Legislature shall each in virtue of his office receive an additional compensation equal to one-half his per diem allowance as a member: *Provided*, That whenever any member of the Legislature shall travel on a free pass in coming to or returning from the session of the Legislature, the number of miles actually traveled on such pass shall be deducted from the mileage of such member.

SEC. 24. The first concern of all good government is the virtue and sobriety of the people, and the purity of the home. The Legislature should further all wise and well directed efforts for the promotion of temperance and morality.

SEC. 25. The members of the Legislature shall, before they enter upon the duties of their respective offices, take or subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of senator (or representative, as the case may be) according to the best of my ability." And such oath may be administered by the Governor, Secretary of State, or judge of the supreme court, or presiding officer of either house.

ARTICLE IV

EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Instruction, each of whom shall hold his office for two years beginning on the first Monday in January next after his election, except as otherwise provided in this Constitution. The officers of the executive department, excepting the Lieutenant-Governor, shall, during their terms of office, reside at the seat of government, where they shall keep the public records, books, and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law.

SEC. 2. The officers named in section one of this article shall be elected by the qualified electors of the State at the time and places of voting for members of the Legislature, and the persons, respectively, having the highest number of votes for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the Legislature at its next regular session, shall forthwith, by joint ballot, elect

one of such persons for said office. The returns of election for the officers named in section one shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

SEC. 3. No person shall be eligible to the office of Governor or Lieutenant-Governor unless he shall have attained the age of thirty years at the time of his election; nor to the office of Secretary of State, State Auditor, Superintendent of Public Instruction, or State Treasurer unless he shall have attained the age of twenty-five years; nor to the office of Attorney-General unless he shall have attained the age of thirty years, and have been admitted to practice in the supreme court of the State or Territory of Idaho, and be in good standing at the time of his election. In addition to the qualifications above described each of the officers named shall be a citizen of the United States and shall have resided within the State or Territory two years next preceding his election.

SEC. 4. The Governor shall be commander-in-chief of the military forces of the State, except when they shall be called into actual service of the United States. He shall have power to call out the militia to execute the laws, to suppress insurrection, or to repel invasion.

SEC. 5. The supreme executive power of the State is vested in the Governor, who shall see that the laws are faithfully executed.

SEC. 6. The Governor shall nominate and, by and with the consent of the senate, appoint all officers whose offices are established by this Constitution, or which may be created by law and whose appointment or election is not otherwise provided for. If, during the recess of the senate, a vacancy occurs in any State or district office, the Governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of a Justice of the supreme or district court, Secretary of State, State Auditor, State Treasurer, Attorney-General, or Superintendent of Public Instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law.

SEC. 7. The Governor, Secretary of State, and Attorney-General shall constitute a board to be known as the board of pardons. Said board, or a majority thereof, shall have power to remit fines and forfeitures, and to grant commutations and pardons after conviction and judgment, either absolutely or upon such conditions as they may impose, in all cases of offenses against the State except treason or conviction on impeachment. The Legislature shall by law prescribe the sessions of said board and the manner in which applications shall be made and regulate the proceedings thereon; but no fine or forfeiture shall be remitted, and no commutation or pardon granted, except by the decision of a majority of said board, after a full hearing in open session, and until previous notice of the time and place of such hearing and the release applied for shall have been given by publication in some newspaper of general circulation at least once a week for four weeks. The proceedings and decision of the board shall be reduced to writing and with their reasons for their action in each case, and the dissent of any member who may disagree, signed

by him, and filed, with all papers used upon the hearing, in the office of the Secretary of State.

The Governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the State, except treason or conviction on impeachment, but such respites or reprieves shall not extend beyond the next session of the board of pardons; and such board shall at such session continue or determine such respite or reprieve, or they may commute or pardon the offense, as herein provided. In cases of conviction for treason the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the Legislature, at each regular session, each case of remission of fine or forfeitue, reprieve, commutation, or pardon granted since the last previous report, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of remission, commutation, pardon, or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the board made thereto.

SEC. 8. The Governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing, at any time, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions, and may at any time he deems it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or State institution. The Governor shall at the commencement of each session, and from time to time, by message, give to the Legislature information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall also send to the Legislature a statement, with vouchers, of the expenditures of all moneys belonging to the State and paid out by him. He shall also, at the commencement of each session, present estimates of the amount of money required to be raised by taxation for all purposes of the State.

SEC. 9. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it; but when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation; but may provide for the expenses of the session and other matters incidental thereto. He may also, by proclamation, convene the Senate in extraordinary session for the transaction of executive business.

SEC. 10. Every bill passed by the Legislature shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the House in which it originated, which House shall enter the objections at large upon its journals and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same it shall be sent, together with the objections, to the other House, by which it shall likewise be recon-

sidered; and if approved by two-thirds of the members present in that House, it shall become a law, notwithstanding the objections of the Governor. In all such cases the vote of each House shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the Governor to the Legislature within five days, (Sundays excepted) after it shall have been presented to him, shall become a law in like manner, as if he had signed it, unless the Legislature shall, by adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the Secretary of State within ten days after such adjournment (Sundays excepted) or become a law.

SEC. 11. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts approved shall become a law and the item or items disapproved shall be void, unless enacted in the manner following: If the Legislature be in session, he shall within five days transmit to the House within which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 12. In case of the failure to qualify, the impeachment, or conviction of treason, felony, or other infamous crime of the Governor, or his death, removal from office, resignation, absence from the State, or inability to discharge the powers and duties of his office, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall cease, shall devolve upon the Lieutenant-Governor.

SEC. 13. The Lieutenant-Governor shall be President of the Senate, but shall vote only when the Senate is equally divided. In case of the absence or disqualification of the Lieutenant-Governor from any cause which applies to the Governor, or when he shall hold the office of Governor, then the president pro tempore of the Senate shall perform the duties of the Lieutenant-Governor until the vacancy is filled or the disability removed.

SEC. 14. In case of the failure to qualify in his office, death, resignation, absence from the State, impeachment, conviction of treason, felony or other infamous crime, or disqualification from any cause, of both Governor and Lieutenant-Governor, the duties of the Governor shall devolve upon the president of the Senate pro tempore, until such disqualification of either the Governor or Lieutenant-Governor be removed, or the vacancy filled; and if the president of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the speaker of the House.

SEC. 15. There shall be a seal of this State, which shall be kept by the Secretary of State and used by him officially, and shall be called "The great seal of the State of Idaho." The seal of the Territory of Idaho, as now used, shall be the seal of the State until otherwise provided by law.

SEC. 16. All grants and permissions shall be in the name and by the authority of the State of Idaho, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 17. An account shall be kept by the officers of the executive department and of all public institutions of the State of all moneys received by them severally, from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the Governor, under oath; they shall also, at least twenty days preceding each regular session, of the Legislature, make full and complete reports of their official transactions to the Governor, who shall transmit the same to the Legislature.

SEC. 18. The Governor, Secretary of State, and Attorney-General shall constitute a board of State prison commissioners, which board shall have such supervision of all matters connected with the State prison as may be prescribed by law. They shall also constitute a board of examiners, with power to examine all claims against the State, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claim against the State, except salaries and compensation of officers fixed by law, shall be passed upon by the Legislature without first having been considered and acted upon by said board.

SEC. 19. The Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Instruction shall, quarterly as due, during their continuance in office, receive for their services compensation, which for the term next ensuing after the adoption of this Constitution, is fixed as follows: Governor, three thousand dollars per annum; Secretary of State, one thousand eight hundred dollars per annum; State Auditor, one thousand eight hundred dollars per annum; State Treasurer, one thousand dollars per annum; Attorney-General, two thousand dollars per annum; and Superintendent of Public Instruction, one thousand five hundred dollars per annum. The Lieutenant-Governor shall receive the same per diem as may be provided by law for the speaker of the House of Representatives, to be allowed only during the session of the Legislature. The compensations enumerated shall be in full for all services by said officers respectively, rendered in any official capacity or employment whatever during their respective terms of office.

No officer named in this section shall receive for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them of any official duty shall be collected in advance and deposited with the State Treasurer quarterly to the credit of the State. The Legislature may, by law, diminish or increase the compensation of any or all of the officers named in this section, but no such diminution or increase shall affect the salaries of the officers then in office during their term. *Provided, however*, The Legislature may provide for the payment of actual and necessary expenses to the Governor, Lieutenant-Governor, Secretary of State, Attorney-General, and Superintendent of Public Instruction, while traveling within the State in the performance of official duty.

ARTICLE V

JUDICIAL DEPARTMENT

SECTION 1. The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, are hereby prohibited; and there shall be in this State but one form of action for the

enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the State as a party against a person charged with a public offense for the punishment of the same, shall be termed a criminal action.

Feigned issues are prohibited, and the fact at issue shall be tried by order of court before a jury.

SEC. 2. The judicial power of the State shall be vested in a court for the trial of impeachments, a supreme court, district courts, probate courts, courts of justices of the peace, and such other courts inferior to the supreme court as may be established by law for any incorporated city or town.

SEC. 3. The court for the trial of impeachments shall be the senate. A majority of the members elected shall be necessary to a quorum, and the judgment shall not extend beyond removal from, and disqualification to hold office in this State; but the party shall be liable to indictment and punishment according to law.

SEC. 4. The house of representatives solely shall have the power of impeachment. No person shall be convicted without the concurrence of two-thirds of the senators elected. When the Governor is impeached the Chief Justice shall preside.

SEC. 5. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture of estate.

SEC. 6. The supreme court shall consist of three Justices, a majority of whom shall be necessary to make a quorum or pronounce a decision. The Justices of the supreme court shall be elected by the electors of the State at large. The terms of office of the justices of the supreme court, except as in this article otherwise provided, shall be six years. The Justices of the supreme court shall, immediately after the first election under this Constitution, be selected by lot, so that one shall hold his office for the term of two years, one for the term of four years, and one for the term of six years. The lots shall be drawn by the Justices of the supreme court, who shall, for that purpose, assemble at the seat of government, and they shall cause the result thereof to be certified to by the Secretary of State and filed in his office. The Justice having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the Chief Justice, and shall preside at all terms of the supreme court, and, in case of his absence, the Justice having in like manner the next shortest term to serve shall preside in his stead.

SEC. 7. No Justice of the supreme court shall be eligible to any other office of trust or profit under the laws of this State during the term for which he was elected.

SEC. 8. At least four terms of the supreme court shall be held annually; two terms at the seat of State government, and two terms at the city of Lewiston, in Nez Perce County. In case of epidemic, pestilence, or destruction of court houses, the Justices may hold the terms of the supreme court provided by this section at other convenient places, to be fixed by a majority of said Justices. After six years the Legislature may alter the provisions of this section.

SEC. 9. The supreme court shall have jurisdiction to review, upon appeal, any decision of the district courts, or the judges thereof. The supreme court shall also have original jurisdiction to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to the complete exercise of its appellate jurisdiction.

SEC. 10. The supreme court shall have original jurisdiction to hear claims against the State, but its decision shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the Legislature for its action.

SEC. 11. The State shall be divided into five judicial districts, for each of which a judge shall be chosen by the qualified electors thereof, whose term of office shall be four years. And there shall be held a district court in each county, at least twice in each year, to continue for such time in each county as may be prescribed by law; but the Legislature may reduce or increase the number of districts, district judges, and district attorneys. This section shall not be construed to prevent the holding of special terms under such regulations as may be provided by law.

SEC. 12. Every judge of the district court shall reside in the district for which he is elected. A judge of any district court may hold a district court in any county at the request of the judge of the district court thereof, and upon the request of the Governor it shall be his duty to do so; but a cause in the district court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, and sworn to try the cause.

SEC. 13. The Legislature shall have no power to deprive the judicial department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department of the government; but the Legislature shall provide a proper system of appeals, and regulate by law, when necessary, the methods of proceeding in the exercise of their powers of all the courts below the supreme court, so far as the same may be done without conflict with this Constitution.

SEC. 14. The Legislature may provide for the establishment of special courts for the trial of misdemeanors in incorporated cities and towns where the same may be necessary.

SEC. 15. The clerk of the supreme court shall be appointed by the court, and shall hold his office during the pleasure of the court. He shall receive such compensation for his services as may be provided by law.

SEC. 16. A clerk of the district court for each county shall be elected by the qualified voters thereof at the time and in the manner prescribed by law for the election of members of the Legislature, and shall hold his office for the term of four years.

SEC. 17. The salary of the Justices of the supreme court, until otherwise provided by the Legislature, shall be three thousand dollars each per annum, and the salary of the judges of the district court, until otherwise provided by the Legislature, shall be three thousand dollars each per annum, and no Justice of the supreme court, or judge of the district court, shall be paid his salary, or any part thereof,

unless he shall have first taken and subscribed an oath that there is not in his hands any matter in controversy not decided by him which had been finally submitted for his consideration and determination, thirty days prior to the taking and subscribing such oath.

SEC. 18. A district attorney shall be elected for each judicial district by the qualified electors thereof, who shall hold office for the term of four years, and perform such duties as may be prescribed by law. He shall be a practicing attorney at law and a resident and elector of the district. He shall receive as compensation for his services twenty-five hundred dollars per annum.

SEC. 19. All vacancies occurring in the offices provided for by this article of the Constitution shall be filled as provided by law.

SEC. 20. The district court shall have original jurisdiction in all cases, both at law and in equity, and such appellate jurisdiction as may be conferred by law.

SEC. 21. The probate courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, and appointment of guardians; also jurisdiction to hear and determine all civil cases wherein the debt or damage claimed does not exceed the sum of five hundred dollars, exclusive of interest, and concurrent jurisdiction with justices of the peace in criminal cases.

SEC. 22. In each county of this State there shall be elected justices of the peace as prescribed by law. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of three hundred dollars, exclusive of interest, nor where the boundaries or title to any real property shall be called in question.

SEC. 23. No person shall be eligible to the office of district judge unless he be learned in the law, thirty years of age, and a citizen of the United States, and shall have resided in the State or Territory at least two years next preceeding his election, nor unless he shall have been at the time of his election, an elector in the judicial district for which he is elected.

SEC. 24. Until otherwise provided by law, the judicial districts shall be five in number, and constituted of the following counties, viz: First district, Shoshone and Kootenai; second district, Latah, Nez Perce, and Idaho; third district, Washington, Ada, Boise, and Owyhee; fourth district, Cassia, Elmore, Logan, and Alturas; fifth district, Bear Lake, Bingham, Oneida, Lemhi, and Custer.

SEC. 25. The judges of the district courts shall, on or before the first day of July in each year, report in writing to the Justices of the supreme court, such defects or omissions in the laws as their knowledge and experience may suggest, and the Justices of the supreme court shall, on or before the first day of December of each year, report in writing to the Governor, to be by him transmitted to the Legislature, together with his message, such defects and omissions in the Constitution and laws as they may find to exist.

SEC. 26. All laws relating to courts shall be general and of uniform operation throughout the State, and the organized judicial powers, proceedings, and practices of all the courts of the same class or grade,

so far as regulated by law, and the force and effect of the proceedings, judgments, and decrees of such courts, severally, shall be uniform.

SEC. 27. The Legislature may by law diminish or increase the compensation of any or all the following officers, to-wit: Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Instruction, commissioner of immigration and labor, Justices of the Supreme Court, and judges of the district courts and district attorneys; but no diminution or increase shall affect the compensation of the officer then in office during his term: *Provided, however*, That the Legislature may provide for the payment of actual and necessary expenses of the Governor, Secretary of State, Attorney-General, and Superintendent of Public Instruction incurred while in performance of official duty.

ARTICLE VI

SUFFRAGE AND ELECTIONS

SECTION 1. All elections by the people must be by ballot. An absolutely secret ballot is hereby guaranteed, and it shall be the duty of the Legislature to enact such laws as shall carry this section into effect.

SEC. 2. Except as in this article otherwise provided, every male citizen of the United States, twenty-one years old, who has actually resided in this State or Territory for six months, and in the county where he offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector; and until otherwise provided by the Legislature, women who have the qualifications prescribed in this article, may continue to hold such school offices and vote at such school elections as provided by the laws of Idaho Territory.

SEC. 3. No person is permitted to vote, serve as a juror, or hold any civil office who is under guardianship, idiotic or insane, or who has, at any place, been convicted of treason, felony, embezzlement of the public funds, bartering or selling, or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense, or who is a bigamist or polygamist, or is living in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this State, or of the United States, forbidding any such crime; or who, in any manner, teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corporation or society, which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy or such patriarchal, or plural marriage, or which teaches or advises that the laws of this State prescribing rules of civil conduct, are not the supreme law of the State; nor shall Chinese, or persons of Mongolian descent, not born in the United States, nor Indians not taxed, who have not severed their tribal relations and

adopted the habits of civilization, either vote, serve as jurors, or hold any civil office.

SEC. 4. The Legislature may prescribe qualifications, limitations, and conditions for the right of suffrage additional to those prescribed in this article, but shall never annul any of the provisions in this article contained.

SEC. 5. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this State, or of the United States, nor while engaged in the navigation of the waters of this State or of the United States, nor while a student of any institution of learning, nor while kept at any alms-house or other asylum at the public expense.

ARTICLE VII

FINANCE AND REVENUE

SECTION 1. The fiscal year shall commence on the second Monday of January in each year, unless otherwise provided by law.

SEC. 2. The Legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person or corporation shall pay a tax in proportion to the value of his, her, or its property, except as in this article hereinafter otherwise provided. The Legislature may also impose a license tax (both upon natural persons and upon corporations, other than municipal, doing business in this State); also a per capita tax: *Provided*, The legislature may exempt a limited amount of improvements upon land from taxation.

SEC. 3. The word "property" as herein used shall be defined and classified by law.

SEC. 4. The property of the United States, the State, counties, towns, cities, and other municipal corporations and public libraries, shall be exempt from taxation.

SEC. 5. All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: *Provided*, That the Legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the Territory, shall continue until changed by the Legislature of the State: *Provided further*, That duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

SEC. 6. The Legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may by law invest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.

SEC. 7. All taxes levied for State purposes shall be paid into the State Treasury, and no county, city, town, or other municipal corporation, the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes.

SEC. 8. The power to tax corporations or corporate property, both real and personal, shall never be relinquished or suspended, and all corporations in this State or doing business therein, shall be subject

to taxation for State, county, school, municipal, and other purposes, on real and personal property owned or used by them, and not by this Constitution exempted from taxation within the territorial limits of the authority levying the tax.

SEC. 9. The rate of taxation of real and personal property for State purposes shall never exceed ten (10) mills on each dollar of assessed valuation; and if the taxable property in the State shall amount to fifty million (50,000,000) dollars the rate shall not exceed five (5) mills on each dollar of valuation; and whenever the taxable property in the State shall amount to one hundred million (100,000,000) dollars, the rate shall not exceed three (3) mills on each dollar of valuation; and whenever the taxable property in the State shall amount to three hundred million (300,000,000) dollars the rate shall never thereafter exceed one and one-half (1½) mills on each dollar of valuation, unless a proposition to increase such rate, specifying the rate proposed and the time during which the same shall be levied, shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it at such election.

SEC. 10. The making of profit, directly or indirectly, out of State, county, city, town, township, or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

SEC. 11. No appropriation shall be made, nor any expenditure authorized by the Legislature, whereby the expenditure of the State during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure unless the Legislature making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section nine (9) of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the State, or assist in defending the United States in time of war.

SEC. 12. There shall be a State board of equalization, consisting of the Governor, Secretary of State, Attorney-General, State Auditor, and State Treasurer, whose duties shall be prescribed by law. The board of county commissioners for the several counties of the State, shall constitute boards of equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county, under such rules and regulations as shall be prescribed by law.

SEC. 13. No money shall be drawn from the treasury, but in pursuance of appropriations made by law.

SEC. 14. No money shall be drawn from the county treasuries except upon the warrant of a duly authorized officer, in such manner and form as shall be prescribed by the Legislature.

SEC. 15. The Legislature shall provide by law, such a system of county finance, as shall cause the business of the several counties to be conducted on a cash basis. It shall also provide that whenever any county shall have any warrants outstanding and unpaid, for the payment of which there are no funds in the county treasury, the county commissioners, in addition to other taxes provided by law, shall levy a special tax, not to exceed ten (10) mills on the dollar, of taxable property, as shown by the last preceding assessment, for the creation

of a special fund for the redemption of said warrants; and after the levy of such special tax, all warrants issued before such levy shall be paid exclusively out of said fund. All moneys in the county treasury at the end of each fiscal year, not needed for current expenses, shall be transferred to said redemption fund.

SEC. 16. The Legislature shall pass all laws necessary to carry out the provisions of this article.

ARTICLE VIII

PUBLIC INDEBTEDNESS AND SUBSIDIES

SECTION 1. The Legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, exclusive of the debt of the Territory at the date of its admission as a State, exceed the sum of one and one-half per centum upon the assessed value of the taxable property in the State, except in case of war, to repel an invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability, as it falls due; and also for the payment and discharge of the principal of such debt or liability, within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until at a general election it shall have been submitted to the people, and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by the authority of such law, shall be applied only to the specified object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people. The Legislature may, at any time after the approval of such law, by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

SEC. 2. The credit of the State shall not, in any manner, be given, or loaned to, or in aid of any individual, association, municipality or corporation; nor shall the State directly or indirectly, become a stockholder in any association or corporation.

SEC. 3. No county, city, town, township, board of education, or school district, or other sub-division of the State, shall incur any indebtedness, or liability in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void: *Provided*, That this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the State.

SEC. 4. No county, city, town, township, board of education, or school district, or other sub-division, shall lend, or pledge the credit or faith thereof directly or indirectly, in any manner, to, or in aid of any individual, association or corporation, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any individual, association or corporation in or out of this State.

ARTICLE IX

EDUCATION AND SCHOOL LANDS

SECTION 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.

SEC. 2. The general supervision of the public schools of the State shall be vested in a board of education, whose powers and duties shall be prescribed by law; the Superintendent of Public Instruction, the Secretary of State and Attorney-General, shall constitute the board, of which the Superintendent of Public Instruction shall be president.

SEC. 3. The public school fund of the State shall forever remain inviolate and intact; the interest thereon only shall be expended in the maintenance of the schools of the State, and shall be distributed among the several counties and school districts of the State in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The State Treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The State shall supply all losses thereof that may in any manner occur.

SEC. 4. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the State by the general government, known as school lands, and those granted in lieu of such; lands acquired by gift or grant from any person or corporation, under any law or grant of the general government; and of all other grants of land or money made to the State from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates or distributive shares of estates that may escheat to the State; all unclaimed shares and dividends of any corporation incorporated under the laws of the State; and all other grants, gifts, devises, or bequests made to the State for general educational purposes.

SEC. 5. Neither the Legislature, nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian, or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the State, or any

such public corporation, to any church or for any sectarian or religious purpose.

SEC. 6. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian or religious tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color. No books, papers, tracts or documents of a political, sectarian or denominational character shall be used or introduced in any schools established under the provisions of this article, nor shall any teacher or any district receive any of the public school moneys in which the schools have not been taught in accordance with the provisions of this article.

SEC. 7. The Governor, Superintendent of Public Instruction, Secretary of State, and Attorney-General, shall constitute the State board of land commissioners, who shall have the direction, control and disposition of the public lands of the State, under such regulations as may be prescribed by law.

SEC. 8. It shall be the duty of the State board of land commissioners to provide for the location, protection, sale or rental of all the lands heretofore, or which may hereafter be, granted to the State by the general government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum possible amount therefor: *Provided*, That no school lands shall be sold for less than ten (10) dollars per acre. No law shall ever be passed by the Legislature granting any privileges to persons who may have settled upon any such public lands, subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The Legislature shall, at the earliest practicable period, provide by law that the general grants of land made by Congress to the State shall, be judiciously located and carefully preserved and held in trust, subject to disposal at public auction for the use and benefit of the respective objects for which said grants of land were made, and the Legislature shall provide for the sale of said lands from time to time, and for the sale of timber on all State lands, and for the faithful application of the proceeds thereof in accordance with the terms of said grants: *Provided*, That not to exceed twenty-five sections of school lands shall be sold in any one year, and to be sold in subdivisions of not to exceed one hundred and sixty (160) acres to any one individual, company or corporation.

SEC. 9. The Legislature may require by law that every child of sufficient mental and physical ability shall attend the public school throughout the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

SEC. 10. The location of the university of Idaho, as established by existing laws is hereby confirmed. All the rights, immunities, franchises, and endowments heretofore granted thereto by the Territory of Idaho are hereby perpetuated unto the said university. The Regents shall have the general supervision of the university, and the

control and direction of all the funds of, and appropriations to, the university, under such regulations as may be prescribed by law. No university lands shall be sold for less than ten dollars per acre, and in subdivisions not to exceed one hundred and sixty acres, to any one person, company or corporation.

SEC. 11. The permanent educational funds, other than funds arising from the disposition of university lands belonging to the State, shall be loaned on first mortgage on improved farm lands within the State, or on State or United States bonds, under such regulations as the Legislature may provide: *Provided*, That no loan shall be made of any amount of money exceeding one-third of the market value of the lands at the time of the loan, exclusive of buildings.

ARTICLE X

PUBLIC INSTITUTIONS

SECTION 1. Educational, reformatory, and penal institutions, and those for the benefit of the insane, blind, deaf and dumb, and such other institutions as the public good may require, shall be established and supported by the State in such manner as may be prescribed by law.

SEC. 2. The seat of government of the State of Idaho shall be located at Boise City for twenty years from the admission of the State, after which time the Legislature may provide for its relocation, by submitting the question to a vote of the electors of the State at some general election.

SEC. 3. The Legislature may submit the question of the location of the seat of government to the qualified voters of the State at the general election, then next ensuing, and a majority of all the votes upon said question cast at said election shall be necessary to determine the location thereof. Said Legislature shall also provide that in case there shall be no choice of location at said election the question of choice between the two places for which the highest number of votes shall have been cast shall be submitted in like manner to the qualified electors of the State at the next general election.

SEC. 4. All property and institutions of the Territory, shall, upon adoption of the Constitution, become the property and institutions of the State of Idaho.

SEC. 5. The Governor, Secretary of State, and Attorney-General shall constitute a board, to be known as the State prison commissioners, and shall have the control, direction and management of the penitentiaries of the State. The Governor shall be chairman, and the board shall appoint a warden, who may be removed at pleasure. The warden shall have the power to appoint his subordinates, subject to the approval of the said board.

SEC. 6. There shall be appointed by the Governor three directors of the asylum for the insane, who shall be confirmed by the senate. They shall have the control, direction, and management of the said asylums, under such regulations as the Legislature shall provide, and hold their offices for a period of two years. The directors shall have the appointment of the medical superintendent, who shall appoint the assistants with the approval of the directors.

SEC. 7. The Legislature for sanitary reasons may cause the removal to more suitable localities of any of the institutions mentioned in section one of this article.

ARTICLE XI

CORPORATIONS, PUBLIC AND PRIVATE

SECTION 1. All existing charters or grants of special or exclusive privileges, under which the corporators or grantees shall not have organized or commenced business in good faith at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 2. No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations as are or may be, under the control of the State; but the Legislature shall provide by general law for the organization of corporations hereafter to be created: *Provided*, That any such general law shall be subject to future repeal or alteration by the Legislature.

SEC. 3. The Legislature may provide by law for altering, revoking, or annulling any charter of incorporation existing and revocable at the time of the adoption of this Constitution, in such manner, however, that no injustice shall be done to the corporators.

SEC. 4. The Legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute, them on the same principle among as many candidates as he shall think fit, and such directors shall not be elected in any other manner.

SEC. 5. All railroads shall be public highways, and all railroad, transportation, and express companies shall be common carriers, and subject to legislative control, and the Legislature shall have power to regulate and control by law, the rates of charges for the transportation of passengers and freight by such companies or other common carriers from one point to another in the State. Any association or corporation organized for, the purpose, shall have the right to construct and operate a railroad between any designated points within this State, and to connect within or at the State line with railroads of other States and Territories. Every railroad company shall have the right with its road, to intersect, connect with, or cross any other railroad, under such regulations as may be prescribed by law, and upon making due compensation.

SEC. 6. All individuals, associations, and corporations, similarly situated shall have equal rights to have persons or property transported on and over any railroad, transportation, or express route in this State, except that preference may be given to perishable property. No undue or unreasonable discrimination shall be made in charges or facilities for transportation of freight or passengers of the same class, by any railroad, or transportation, or express company, between persons or places within the State; but excursion or commutation tickets may be issued and sold at special rates, provided such

rates are the same to all persons. No railroad, or transportation, or express company shall be allowed to charge, collect or receive, under penalties which the Legislature shall prescribe, any greater charge or toll for the transportation of freight or passengers, to any place or station upon its route or line, than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within this State. No railroad, express, or transportation company, nor any lessee, manager, or other employee thereof, shall give any preference to any individual, association, or corporation, in furnishing cars or motive power or for the transportation of money or other express matter.

SEC. 7. No corporation other than municipal corporations in existence at the time of the adoption of this Constitution, shall have the benefit of any future legislation, without first filing in the office of the Secretary of State an acceptance of the provisions of this Constitution in binding form.

SEC. 8. The right of eminent domain shall never be abridged, or so construed as to prevent the Legislature from taking the property and franchise of incorporated companies, and subjecting them to public use, the same as property of individuals; and the police powers of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

SEC. 9. No corporation shall issue stocks or bonds, except for labor done, services performed, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons, holding a majority of the stock, first obtained at a meeting, held after at least thirty days' notice given in pursuance of law.

SEC. 10. No foreign corporation shall do any business in this State without having one or more known places of business, and, an authorized agent or agents in the same, upon whom process may be served, and no company or corporation formed under the laws of any other country, State, or Territory, shall have or be allowed to exercise or enjoy, within this State any greater rights or privileges than those possessed or enjoyed by corporations of the same or similar character created under the laws of this State.

SEC. 11. No street, or other railroad, shall be constructed within any city, town, or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street or other railroad.

SEC. 12. The Legislature shall pass no law for the benefit of a railroad, or other corporation, or any individual or association of individuals retroactive in its operation, or which imposes on the people of any county or municipal subdivision of the State, a new liability in respect to transactions or considerations already past.

SEC. 13. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph or telephone within this State, and connect the same with other lines; and the Legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section.

SEC. 14. If any railroad, telegraph, express, or other corporation, organized under any of the laws of this State shall consolidate by sale or otherwise with any railroad, telegraph, express, or other corporation organized under any of the laws of any other State or Territory, or of the United States, the same shall not thereby become a foreign corporation, but the courts of this State shall retain jurisdiction over that part of the corporate property within the limits of the State in all matters that may arise, as if said consolidation had not taken place.

SEC. 15. The Legislature shall not pass any law permitting the leasing or alienation of any franchise so as to release or relieve the franchise or property held thereunder from any of the liabilities of the lessor or grantor, or lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

SEC. 16. The term "corporation" as used in this article, shall be held and construed to include all associations and joint stock companies having or exercising any of the powers or privileges of corporations not possessed by individuals or partnerships.

SEC. 17. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him.

SEC. 18. That no incorporated company, or any association of persons or stock company, in the State of Idaho, shall directly or indirectly combine or make any contract with any other incorporated company, foreign or domestic, through their stockholders or the trustees or assignees of such stockholders, or in any manner whatsoever, for the purpose of fixing the price or regulating the production of any article of commerce or of produce of the soil, or of consumption by the people; and that the Legislature be required to pass laws for the enforcement thereof, by adequate penalties, to the extent, if necessary for that purpose, of the forfeiture of their property and franchise.

ARTICLE XII

CORPORATIONS—MUNICIPAL

SECTION 1. The Legislature shall provide by general laws for the incorporation, organization, and classification of the cities and towns, in proportion to the population, which laws may be altered, amended, or repealed by the general laws. Cities and towns heretofore incorporated, may become organized under such general laws, whenever a majority of the electors at a general election, shall so determine, under such provision therefor as may be made by the Legislature.

SEC. 2. Any county or incorporated city or town may make and enforce, within its limits, all such local, police, sanitary, and other regulations as are not in conflict with its charter or with the general laws.

SEC. 3. The State shall never assume the debts of any county, town, or other municipal corporation, unless such debts shall have been created to repel invasion, suppress insurrection or defend the State in war.

SEC. 4. No county, town, city, or other municipal corporation, by vote of its citizens or otherwise, shall ever become a stockholder in any joint stock company, corporation or association whatever, or raise money for, or make donation or loan its credit to, or in aid of, any such company or association: *Provided*, That cities and towns may contract indebtedness for school, water, sanitary, and illuminating purposes: *Provided*, That any city or town contracting such indebtedness shall own its just proportion of the property thus created, and receive from any income arising therefrom, its proportion to the whole amount so invested.

ARTICLE XIII

IMMIGRATION AND LABOR

SECTION 1. There shall be established a bureau of immigration, labor and statistics, which shall be under the charge of a commissioner of immigration, labor and statistics, who shall be appointed by the Governor, by and with the consent of the senate. The commissioner shall hold his office for two years, and until his successor shall have been appointed and qualified, unless sooner removed. The commissioner shall collect information upon the subject of labor, its relation to capital, the hours of labor and the earnings of laboring men and women, and the means of promoting their material, social, intellectual and moral prosperity. The commissioner shall annually make a report in writing to the Governor of the State of the information collected and collated by him, and containing such recommendations as he may deem calculated to promote the efficiency of the bureau.

SEC. 2. Not more than eight (8) hours' actual work shall constitute a lawful day's work on all State and municipal works.

SEC. 3. All labor of convicts confined in the State's prison shall be done within the prison grounds, except where the work is done on public works under the direct control of the State.

SEC. 4. The employment of children under the age of fourteen (14) years in underground mines is prohibited.

SEC. 5. No person, not a citizen of the United States, or who has not declared his intention to become such, shall be employed upon, or in connection with, any State or municipal works.

SEC. 6. The Legislature shall provide by proper legislation for giving to mechanics, laborers, and material men an adequate lien on the subject-matter of their labor.

SEC. 7. The Legislature may establish boards of arbitration, whose duty it shall be to hear and determine all differences and controversies between laborers and their employers which may be submitted to them in writing by all the parties. Such boards of arbitration shall possess all the powers and authority, in respect to administering oaths, subpœnaing witnesses, and compelling their attendance, preserving order during the sittings of the board, punishing for contempt, and requiring the production of papers and writings, and all other powers and privileges, in their nature applicable, conferred by law on justices of the peace.

SEC. 8. The commissioner of immigration, labor and statistics shall perform such duties and receive such compensation as may be prescribed by law.

Article XIV

MILITIA

Section 1. All able-bodied male persons, residents of this State, between the ages of eighteen and forty-five years, shall be enrolled in the militia, and perform such military duty as may be required by law; but no person having conscientious scruples against bearing arms, shall be compelled to perform such duty in time of peace. Every person claiming such exemption from service, shall, in lieu thereof, pay into the school fund of the county of which he may be a resident, an equivalent in money, the amount and manner of payment to be fixed by law.

Sec. 2. The Legislature shall provide by law for the enrollment, equipment and discipline of the militia, to conform as nearly as practicable to the regulations for the government of the armies of the United States, and pass such laws to promote volunteer organizations as may afford them effectual encouragement.

Sec. 3. All militia officers shall be commissioned by the Governor, the manner of their selection to be provided by law, and may hold their commissions for such period of time as the Legislature may provide.

Sec. 4. All military records, banners, and relics of the State, except when in lawful use, shall be preserved in the office of the adjutant-general as an enduring memorial of the patriotism and valor of the soldiers of Idaho; and it shall be the duty of the Legislature to provide by law for the safe-keeping of the same.

Sec. 5. All military organizations under the laws of this State shall carry no other device, banner, or flag than that of the United States or the State of Idaho.

Sec. 6. No armed police force, or detective agency, or armed body of men, shall ever be brought into this State for the suppression of domestic violence, except upon the application of the Legislature, or the executive when the Legislature cannot be convened.

Article XV

WATER RIGHTS

Section 1. The use of all waters now appropriated, or that may hereafter be appropriated for sale, rental, or distribution; also of all water originally appropriated for private use, but which after such appropriation has heretofore been, or may hereafter be sold, rented, or distributed, is hereby declared to be a public use, and subject to the regulation and control of the State in the manner prescribed by law.

Sec. 2. The right to collect rates or compensation for the use of water supplied to any county, city, or town, or water district, or the inhabitants thereof, is a franchise, and can not be exercised except by authority of and in the manner prescribed by law.

Sec. 3. The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied. Priority of appropriation shall give the better right as between those using the water; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same,

those using the water for domestic purposes shall (subject to such limitations as may be prescribed by law) have the preference over those claiming for any other purpose; and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes. And in any organized mining district, those using the water, for mining purposes, or milling purposes connected with mining, shall have preference over those using the same for manufacturing or agricultural purposes. But the usage by such subsequent appropriators shall be subject to such provisions of law regulating the taking of private property for public and private use, as referred to in section fourteen of Article I, of this Constitution.

Sec. 4. Whenever any waters have been, or shall be, appropriated or used for agricultural purposes, under a sale, rental, or distribution thereof, such sale, rental, or distribution shall be deemed an exclusive dedication to such use; and whenever such waters so dedicated shall have once been sold, rented, or distributed to any person who has settled upon or improved land for agricultural purposes with the view of receiving the benefit of such water under such dedication, such person, his heirs, executors, administrators, successors, or assigns, shall not thereafter, without his consent, be deprived of the annual use of the same, when needed for domestic purposes, or to irrigate the land so settled upon or improved, upon payment therefor, and compliance with such equitable terms and conditions as to the quantity used and times of use, as may be prescribed by law.

Sec. 5. Whenever more than one person has settled upon, or improved land with the view of receiving water for agricultural purposes, under a sale, rental or distribution thereof, as in the last preceding section of this article, provided, as among such persons priority in time shall give superiority of right to the use of such water in the numerical order of such settlements or improvements; but whenever the supply of such water shall not be sufficient to meet the demands of all those desiring to use the same, such priority of right shall be subject to such reasonable limitations as to the quantity of water used and times of use as the Legislature, having due regard, both to such priority of right and the necessities of those subsequent in time of settlement or improvement, may by law prescribe.

Sec. 6. The Legislature shall provide by law the manner in which reasonable maximum rates may be established to be charged for the use of water sold, rented or distributed for any useful or beneficial purpose.

Article XVI

LIVE-STOCK

Section 1. The Legislature shall pass all necessary laws to provide for the protection of livestock against the introduction or spread of pleuro-pneumonia, glanders, splenetic or Texas fever, and other infectious or contagious diseases. The Legislature may also establish a system of quarantine or inspection, and such other regulations as may be necessary for the protection of stock-owners and most conducive to the stock interests within this State.

Article XVII

STATE BOUNDARIES

Section 1. The name of this State is Idaho, and its boundaries are as follows: Beginning at a point in the middle channel of the Snake river where the northern boundary of Oregon intersects the same; then follow down the channel of Snake river to a point opposite the mouth of the Kooskooskia or Clearwater river; thence due north to the forty-ninth parallel of latitude; thence east along that parallel to the thirty-ninth degree of longitude west of Washington; thence south along that degree of longitude to the crest of the Bitter Root Mountains; thence southward along the crest of the Bitter Root Mountains till its intersection with the Rocky Mountains; thence southward along the crest of the Rocky Mountains to the thirty-fourth degree of longitude west of Washington; thence south along that degree of longitude to the forty-second degree of north latitude; thence west along that parallel to the eastern boundary of the State of Oregon; thence north along that boundary to the place of beginning.

Article XVIII

COUNTY ORGANIZATION

Section 1. The several counties of the Territory of Idaho as they now exist, are hereby recognized as legal subdivisions of this State.

Sec. 2. No county seat shall be removed unless upon petition of a majority of the qualified electors of the county, and unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal of the county seat shall not be submitted in the same county more than once in six years, except as provided by existing laws. No person shall vote at any county seat election who has not resided in the county six months, and in the precinct ninety days.

Sec. 3. No county shall be divided unless a majority of the qualified electors of the territory proposed to be cut off, voting on the proposition at a general election, shall vote in favor of such division: *Provided*, That this section shall not apply to the creation of new counties. No person shall vote at such election who has not been ninety days a resident of the territory proposed to be annexed. When any part of a county is stricken off and attached to another county, the part stricken off shall be held to pay its ratable proportion of all then existing liabilities of the county from which it is taken.

Sec. 4. No new county shall be established which shall reduce any county to an area of less than four hundred square miles, nor shall a new county be formed containing an area of less than four hundred square miles.

Sec. 5. The Legislature shall establish, subject to the provisions of this article, a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township or precinct organization.

Sec. 6. The Legislature, by general and uniform laws, shall provide for the election biennially in each of the several counties of the State,

of county commissioners, a sheriff, county treasurer, who is ex-officio public administrator; probate judge, who is ex-officio county superintendent of public instruction; county assessor, who is ex-officio tax collector; a coroner and a surveyor. The clerk of the district court shall be ex-officio auditor and recorder. No other county offices shall be established, but the Legislature by general and uniform laws shall provide for the election of such township, precinct and municipal officers as public convenience may require, and shall prescribe their duties and fix their terms of office. The Legislature shall provide for the strict accountability of county, township, precinct and municipal officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession. The county commissioners may employ counsel when necessary. The sheriff, auditor and recorder and clerk of the district court shall be empowered by the county commissioners to appoint such deputies and clerical assistance as the business of their offices may require; said deputies and clerical assistance to receive such compensation as may be fixed by the county commissioners. No sheriff or county assessor shall be qualified to hold the term of office immediately succeeding the term for which he was elected.

SEC. 7. The officers provided by section six (6) of this article shall receive annually as compensation for their services as follows: Sheriff, not more than four thousand dollars and not less than one thousand dollars, together with such mileage as may be prescribed by law; clerk of the district court, who is ex-officio auditor and recorder, not more than three thousand dollars and not less than five hundred dollars; probate judge, who is ex-officio county superintendent of public instruction, not more than two thousand dollars and not less than five hundred dollars; county assessor, who is ex-officio tax collector, not more than three thousand dollars and not less than five hundred dollars; county treasurer, who is ex-officio public administrator, not more than one thousand dollars, and not less than three hundred dollars; coroner, not more than five hundred dollars; county surveyor, not more than one thousand dollars; county commissioners, such per diem and mileage as may be prescribed by law; and justices of the peace and constables such fees as may be prescribed by law.

SEC. 8. The compensation provided in section seven (7) for the officers therein mentioned shall be paid by fees or commissions, or both, as prescribed by law. All fees and commissions received by such officers in excess of the maximum compensation per annum provided for each in section seven (7) of this article shall be paid to the county treasurer for the use and benefit of the county. In case the fees received in any one year by any one such officers shall not amount to the minimum compensation per annum therein provided, he shall be paid by the county a sum sufficient to make his aggregate annual compensation equal to such minimum compensation.

SEC. 9. The neglect or refusal of any officer named in this article to account for and pay into the county treasury any money received as fees or compensation in excess of the maximum amount allowed to such officer by the provisions of this article, within forty days after the receipt of the same, shall be a felony, and the grade of the crime shall be the embezzlement of public moneys, and be punishable as provided for such offense.

SEC. 10. The board of county commissioners shall consist of three members, whose term of office shall be two years.

SEC. 11. County, township and precinct officers shall perform such duties as shall be prescribed by law.

ARTICLE XIX

APPORTIONMENT

SECTION 1. Until otherwise provided by law the apportionment of the two houses of the Legislature shall be as follows:

The first senatorial districts shall consist of the county of Shoshone, and shall elect two senators.

The second shall consist of the counties of Kootenai and Latah, and shall elect one senator.

The third shall consist of the counties of Nez Perce and Idaho, and shall elect one senator.

The fourth shall consist of the counties of Nez Perce and Latah, and shall elect one senator.

The fifth shall consist of the county of Latah, and shall elect one senator.

The sixth shall consist of the county of Boise, and shall elect one senator.

The seventh shall consist of the county of Custer, and shall elect one senator.

The eighth shall consist of the county of Lemhi, and shall elect one senator.

The ninth shall consist of the county of Logan, and shall elect one senator.

The tenth shall consist of the county of Bingham, and shall elect one senator.

The eleventh shall consist of the counties of Bear Lake, Oneida and Bingham, and shall elect one senator.

The twelfth shall consist of the counties of Owyhee and Cassia, and shall elect one senator.

The thirteenth shall consist of the county of Elmore, and shall elect one senator.

The fourteenth shall consist of the county of Alturas, and shall elect one senator.

The fifteenth shall consist of the county of Ada, and shall elect two senators.

The sixteenth shall consist of the county of Washington, and shall elect one senator.

SEC. 2. The several counties shall elect the following members of the house of representatives:

The county of Ada, three members.

The counties of Ada and Elmore, one member.

The county of Alturas, two members.

The county of Boise, two members.

The county of Bear Lake, one member.

The county of Bingham, three members.

The county of Cassia, one member.

The county of Custer, two members.

The county of Elmore, one member.
The county of Idaho, one member.
The counties of Idaho and Nez Perce, one member.
The county of Kootenai, one member.
The county of Latah, two members.
The counties of Kootenai and Latah, one member.
The county of Logan, two members.
The county of Lemhi, two members.
The county of Nez Perce, one member.
The county of Oneida, one member.
The county of Owyhee, one member.
The county of Shoshone, four members.
The county of Washington, two members.
The counties of Bingham, Logan and Alturas, one member.

Article XX

AMENDMENTS

Section 1. Any amendment or amendments to this Constitution may be proposed in either branch of the Legislature, and if the same shall be agreed to by two-thirds of all the members of each of the two houses, voting separately, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and it shall be the duty of the Legislature to submit such amendment or amendments to the electors of the State at the next general election, and cause the same to be published without delay for at least six consecutive weeks, prior to said election, in not less than one newspaper of general circulation published in each county; and if a majority of the electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

Sec. 2. If two or more amendments are proposed, they shall be submitted in such manner that the electors shall vote for or against each of them separately.

Sec. 3. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to call a convention to revise or amend this Constitution, they shall recommend to the electors to vote at the next general election for or against a convention, and if a majority of all the electors voting at said election shall have voted for a convention, the Legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members not less than double the number of the most numerous branch of the Legislature.

Sec. 4. Any Constitution adopted by such convention, shall have no validity until it has been submitted to, and adopted by, the people.

Article XXI

SCHEDULE AND ORDINANCE

Section 1. That no inconvenience may arise from a change of the Territorial government to a permanent State government, it is declared that all writs, actions, prosecutions, claims, liabilities, and obligations against the Territory of Idaho, of whatsoever nature, and

rights of individuals, and of bodies corporate, shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this Constitution, be issued under the authority of the Territory of Idaho, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Idaho which are not repugnant to this Constitution shall remain in force until they expire by their own limitation or be altered or repealed by the Legislature.

SEC. 3. All fines, penalties, forfeitures, and escheats accruing to the Territory of Idaho shall accrue to the use of the State.

SEC. 4. All recognizances, bonds, obligations, or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this Constitution, shall remain valid, and shall pass over to and may be prosecuted in the name of the State; and all bonds, obligations, or other undertaking executed by this Territory, or to any other officer in his official capacity, shall pass over to the proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which have arisen, or which may arise before the organization of the judicial department under this Constitution, and which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

SEC. 5. All officers, civil and military, now holding their offices and appointments in this Territory under the authority of the United States, or under the authority of this Territory, shall continue to hold and exercise their respective offices and appointments until suspended under this Constitution.

SEC. 6. This Constitution shall be submitted for adoption or rejection, to a vote of the electors qualified by the laws of this Territory to vote at all elections at an election to be held on the Tuesday next after the first Monday in November, A. D. 1889. Said election shall be conducted in all respects in the same manner as provided by the laws of the Territory for general election, and the returns thereof shall be made and canvassed in the same manner and by the same authority as provided in cases of such general elections, and abstracts of such returns duly certified shall be transmitted to the board of canvassers now provided by law for canvassing the returns of votes for Delegate in Congress. The said canvassing board shall canvass the votes so returned and certify and declare the result of said election in the same manner, as is required by law for the election of said Delegate.

At the said election the ballots shall be in the following form: For the Constitution—yes; no.

And as a heading to each of said ballots shall be printed on each ballot, the following instructions to voters:

All persons who desire to vote for the Constitution, or any of the articles submitted to a separate vote, may erase the word "no."

All persons who desire to vote against the Constitution, or against any article submitted separately, may erase the word "yes."

Any person may have printed or written on his ballot only the words, "For the Constitution" or "Against the Constitution,"

and such ballots shall be counted for or against the Constitution accordingly.

SEC. 7. This Constitution shall take effect and be in full force immediately upon the admission of the Territory as a State.

SEC. 8. Immediately upon the admission of the Territory as a State, the Governor of the Territory, or in case of his absence or failure to act, the secretary of the Territory, or in case of his absence or failure to act, the president of this convention, shall issue a proclamation, which shall be published, and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people of all State, district, county, township, and other officers, created and made elective by this Constitution, and fixing a day for such election, which shall not be less than forty days after the date of such proclamation, nor more than ninety days after the admission of the Territory as a State.

SEC. 9. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given, in the manner and for the length of time provided by the laws of the Territory in cases of general elections for Delegate to Congress and county and other officers. Every qualified elector of the Territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the Territory for general elections, and returns thereof shall be made and canvassed in the same manner and by the same authority as provided in cases of such general election; but returns for all State and district officers and members of the Legislature, shall be made to the canvassing board hereinafter provided for.

SEC. 10. The Governor, Secretary, Controller, and Attorney-General of the Territory, and the president of this convention, or a majority of them, shall constitute a board of canvassers to canvass the vote at such elections for all State and district officers and members of the Legislature. The said board shall assemble at the seat of government of the Territory, on the thirtieth day after the date of such election (or on the following day if such day fall on Sunday), and proceed to canvass the votes for all State and district officers and members of the Legislature, in the manner provided by the laws of the Territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the Secretary of the Territory an abstract certified by them, of the number of votes cast for each person for each of said offices, and of the total number of votes cast in each county.

SEC. 11. The canvassing boards of the several counties shall issue certificates of election to the several persons found by them to have been elected to the several county and precinct offices.

SEC. 12. All officers elected at such election shall, within thirty days after they have been declared elected, take the oath required by this Constitution, and give the same bond required by the law of the Territory to be given in case of like officers of the Territory, district or county, and shall thereupon enter upon the duties of their respective offices; but the Legislature may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 13. All officers elected at said election, shall hold their offices until the Legislature shall provide by law, in accordance with this Constitution, for the election of their successors, and until such successors shall be elected and qualified.

SEC. 14. The Governor-elect of the State, immediately upon his qualifying and entering upon the duties of his office, shall issue his proclamation convening the Legislature of the State at the seat of government on a day to be named in said proclamation and which shall not be less than thirty nor more than sixty days after the date of such proclamation. Within ten days after the organization of the Legislature both houses of the Legislature shall then and there proceed to elect, as provided by law, two Senators of the United States for the State of Idaho. At said election, the two persons who shall receive the majority of all the votes cast by said senators and representatives, shall be elected as such United States Senators, and shall be so declared by the presiding officers of said joint session. The presiding officers of the senate and house, shall issue a certificate to each of said senators, certifying his election, which certificates shall also be signed by the Governor and attested by the Secretary of State.

SEC. 15. The Legislature shall pass all necessary laws to carry into effect the provisions of this Constitution.

SEC. 16. Whenever any two of the judges of the supreme court of the State, elected under the provisions of this Constitution, shall have qualified in their offices, the causes then pending in the supreme court of the Territory, and the papers, records, and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the State; and until so superceded the supreme court of the Territory and the judges thereof shall continue, with like powers and jurisdiction, as if this Constitution had not been adopted. Whenever the judge of the district court of any district, elected under the provisions of this Constitution, shall have qualified in office, the several causes then pending in the district court of the Territory, within any county in such district, and the records, papers, and proceedings of said district court, and the seal and other property pretaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county; and until the district courts of this Territory shall be superceded in the manner aforesaid the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively, as heretofore constituted under the laws of the Territory.

SEC. 17. Until otherwise provided by law, the seals now in use in the supreme and district courts of this Territory are hereby declared to be the seals of the supreme and district courts, respectively, of the State.

SEC. 18. Whenever this Constitution shall go into effect, the books, records, and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the probate court of the same county of the State, and the said probate court shall proceed to final decree or judgment, order, or other determination in the said several matters and causes as the said probate court might have done as if this Constitution had not been adopted.

SEC. 19. It is ordained by the State of Idaho that perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship. And the people of the State of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits, owned or held by any Indians or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States, residing without the said State of Idaho, shall never be taxed at a higher rate than the lands belonging to the residents thereof. That no taxes shall be imposed by the State on the lands or property therein belonging to, or which may hereafter be purchased by, the United States, or reserved for its use. And the debts and liabilities of this Territory shall be assumed and paid by the State of Idaho. That this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Idaho.

SEC. 20. That in behalf of the people of Idaho, we, in convention assembled, do adopt the Constitution of the United States.

Done in open convention, at Boise City, in the Territory of Idaho, this sixth day of August, in the year of our Lord one thousand eight hundred and eighty-nine.

WM. H. CLAGETT, *President.*

AMENDMENTS

The following amendments to the Constitution have been adopted:

ARTICLE V

SEC. 18. A prosecuting attorney shall be elected for each organized county in the state, by the qualified electors of such county, and shall hold office for the term of two years, and shall perform such duties as may be prescribed by law; he shall be a practicing attorney at law, and a resident and elector of the county for which he is elected. He shall receive as compensation for his services a sum not less than five hundred dollars per annum nor more than fifteen hundred dollars per annum, to be fixed by the board of commissioners of the county at its regular session in July next preceding any general election, and to be paid in quarterly installments out of the county treasury.

ARTICLE VI

SEC. 2. Except as in this article otherwise provided, every male or female citizen of the United States, twenty-one years old, who has actually resided in this state or territory for six months, and in the county where he or she offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector; and until otherwise provided by the legislature, women who have the

qualifications prescribed in this article may continue to hold such school offices and vote at such school elections as provided by the laws of Idaho Territory.

Article XVIII

Sec. 4. No new counties shall be established which shall reduce any county to an area of less than four hundred square miles nor the valuation of its taxable property to less than one million dollars. Nor shall any new county be formed which shall have an area of less than four hundred square miles, and taxable property of less than one million dollars, as shown by the last previous assessment.

Sec. 6. The legislature by general and uniform laws shall provide for the election bienally in each of the several counties of the State, of county commissioners, a sheriff, a county treasurer, who is ex-officio public administrator, a probate judge, a county superintendent of public instruction, a county assessor who is ex-officio tax collector, a coroner and a surveyor. The clerk of the district court shall be ex-officio auditor and recorder. No other county offices shall be established, but the legislature by general and uniform laws shall provide for such township, precinct and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. The legislature shall provide for the strict accountability of county, township, precinct and municipal officers for all fees which may be collected by them, and for all public and municipal monies which may be paid to them or officially come into their possession. The county commissioners may employ counsel when necessary. The sheriff, auditor and recorder, and clerk of the district court shall be empowered by the county commissioners to appoint such deputies and clerical assistance as the business of their offices may require, said deputies and clerical assistants to receive such compensation as may be fixed by the county commissioners. No sheriff or county assessor shall be qualified to hold the term of office immediately succeeding the term for which he was elected. The salary and qualifications of the county superintendent shall be fixed by law.

Sec. 7. All county officers and deputies when allowed, shall receive, as full compensation for their services, fixed annual salaries, to be paid quarterly out of the county treasury, as other expenses are paid. All actual and necessary expenses, incurred by any county officer or deputy, in the performance of his official duties, shall be a legal charge against the county, and may be retained by him out of any fees, which may come into his hands. All fees, which may come into his hands from whatever source, over and above his actual and necessary expenses, shall be turned into a county treasury at the end of each quarter. He shall at the end of each quarter, file with the clerk of the board of county commissioners, a sworn statement, accompanied by proper vouchers, showing all expenses incurred and all fees received, which must be audited by the board as other accounts.

Sec. 9. The neglect or refusal of any county officer or deputy to account for and pay into the county treasury any money received as fees or compensation, in excess of his actual and necessary expenses, incurred in the performance of his official duties, within ten days

after his quarterly settlement with the county, shall be a felony, and the grade of the crime shall be embezzlement of public funds, and be punishable as provided for such offenses.

Article XIII

Sec. 2. Not more than eight (8) hours actual work shall constitute a lawful day's work on all state and municipal works, and the legislature shall pass laws to provide for the health and safety of employes in factories, smelters, mines and ore reduction works.

ILLINOIS

VIRGINIA ACT OF CESSION—1783 [a]

SECTION 1. Whereas the Congress of the United States did, by their act of the 6th day of September, in the year 1780, recommend to the several States in the Union, having claims to waste and unappropriated lands in the western country, a liberal cession to the United States of a portion of their respective claims for the common benefit of the Union:

SEC. 2. And whereas this commonwealth did, on the 2d day of January, in the year 1781, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim which the said commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession:

SEC. 3. And whereas the United States in Congress assembled have, by their act of the 13th of September last, stipulated the terms on which they agree to accept the cession of this State, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal for the common benefit and support of the Union:

Be it enacted by the general assembly, That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States, in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, subject to the terms and conditions contained in the before-recited act of Congress of the 13th day of September last, that is to say: Upon condition that the territory so ceded shall be laid out and formed into

[a] This act was passed on December 20, 1783, by the legislature of Virginia, to authorize the delegates of that State in Congress to convey to the United States all the rights of that commonwealth to the territory northwest of the river Ohio.

States, containing a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed shall be distinct republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States; that the necessary and reasonable expenses incurred by this State in subduing any British posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the act of Congress of the 10th of October, 1780, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have professed themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity, not exceeding one hundred and fifty thousand acres, of land, promised by this State, shall be allowed and granted to the then Colonel, now General, George Rogers Clarke, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskies and Saint Vincents were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of Virginia. That in case the quantity of good lands on the southeast side of the Ohio, upon the waters of Cumberland River, and between the Green River and Tennessee River, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State shall not be executed unless three of them, at least, are present in Congress.

DEED OF CESSION FROM VIRGINIA—1784

To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten delegates for the commonwealth of Virginia in the Congress of the United States of America, send greeting:

Whereas the general assembly of the commonwealth of Virginia, at their sessions begun on the 20th day of October, 1783, passed an act, entitled "An act to authorize the delegates of this State in Congress to convey to the United States in Congress assembled all the right of this commonwealth to the territory northwestward of the river Ohio, in these words following, to wit," [here follows the act of cession:]

And whereas the said general assembly, by their resolution of June 6, 1783, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said commonwealth in Congress, for one year from the first Monday in November then next following, which resolution remains in full force: Now, therefore, know ye, that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the said general assembly of Virginia before recited, and in the name, and for and on behalf of, the said commonwealth, do, by these presents, convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as of jurisdiction, which the said commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes and on the conditions of the said recited act. In testimony whereof we have hereunto subscribed our names and affixed our seals, in Congress, the 1st day of March, in the year of our Lord 1784, and of the Independence of the United States the eighth.

THE NORTHWEST TERRITORIAL GOVERNMENT—1787

[The Congress of the Confederation, July 13, 1787]

An Ordnance for the government of the territory of the United States northwest of the river Ohio

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be

no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age) and attested by three witnesses;—and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; *Provided*, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: *Provided*, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: *Provided also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representative. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected the governor shall appoint a time and place for them

to meet together, and when met they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to servie as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

Article I

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territory.

Article II

The inhabitants of the said territory shall always be entitled to the benefits of the writs of *habeas corpus*, and of the trial by jury; of a

proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, *bona fide*, and without fraud previously formed.

Article III

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

Article IV

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted, or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers. No tax shall be imposed on land the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States,

and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

Article V

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however*, And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: *Provided*, The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

Article VI

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes, whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

VIRGINIA ACT OF RATIFICATION—1788 [a]

Whereas the United States in Congress assembled did, on the 7th day of July, in the year of our Lord 1786, state certain reasons, showing that a division of the territory which hath been ceded to the said United States by this commonwealth into States, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower Congress to make such a division of the said territory into distinct and republican States, not more than five nor less than three in number, as the situation of that country and future circumstances might require; and the said United States in Congress assembled have, in an ordinance for the government of the territory northwest of the river Ohio, passed on the 13th of July, 1787, declared the following as one of the articles of compact between the original States and the people and States in the said territory, viz, [here article 5 of the ordinance of 1787 is recited;]

And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original States and the people and States in the said territory:

Be it therefore enacted by the general assembly, That the aforerecited article of compact between the original States and the people and States in the territory northwest of Ohio river be, and the same is hereby, ratified and confirmed, anything to the contrary in the deed of cession of the said territory by this commonwealth to the United States notwithstanding.

THE NORTHWEST TERRITORIAL GOVERNMENT—1789

[First Congress, First Session]

An Act to provide for the government of the territory northwest of the river Ohio

Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory northwest of the river Ohio, may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which, by the said ordinance, any information is to be given or com-

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[a] The act of Virginia of December 18, 1789, concerning the erection of Kentucky into an independent State, contained the following proviso:

"Sec. 7. The use and navigation of the river Ohio, so far as the territory of the proposed State, or the territory which shall remain within the limits of this commonwealth, lies therein, shall be free and common to the citizens of the United States; and the respective jurisdictions of this commonwealth and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river."

munication made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information and to make such communication to the President of the United States; and the President shall nominate, and, by and with the advice and consent of the Senate shall appoint, all officers which, by the said ordinance, were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

SEC. 2. *And be it further enacted*, That in case of the death, removal, resignation, or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby, authorized and required to execute all the powers and perform all the duties of the governor during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor.

Approved, August 7, 1789.

THE NORTHWEST TERRITORIAL GOVERNMENT—1800 [a]

[SIXTH CONGRESS, FIRST SESSION]

An Act to divide the territory of the United States northwest of the Ohio into two separate governments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the fourth day of July next, all that part of the territory of the United States northwest of the Ohio River which lies to the westward of a line beginning at the Ohio, opposite to the mouth of Kentucky River, and running thence to Fort Recovery, and thence north until it shall intersect the territorial line between the United States and Canada, shall, for the purposes of temporary government, constitute a separate territory, and be called the Indiana Territory.

SEC. 2. *And be it further enacted*, That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio; and the inhabitants thereof shall be entitled to, and enjoy, all and singular the rights, privileges, and advantages granted and secured to the people by the said ordinance.

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[a] For other statutes of an organic nature relating to Illinois see the act to change slightly the duties of officers and courts in northwest territory, act of May 8, 1792; to extend the right of suffrage in Indiana Territory, February 26, 1808; to extend the right of suffrage in Illinois Territory, May 20, 1812; to determine cases begun before division of territory, June 10, 1812; to define duties of judges, act of March 3, 1815; to regulate organization of courts, April 29, 1816; to provide for the execution of the laws of United States in, March 3, 1819. See also references in note to Indiana, p.—.

SEC. 3. *And be it further enacted*, That the officers for the said Territory, who by virtue of this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid and the laws of the United States have been provided and established for similar officers in the territory of the United States northwest of the river Ohio. And the duties and emoluments of superintendent of Indian affairs shall be united with those of governor: *Provided*, That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized: and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted*, That so much of the ordinance for the government of the territory of the United States northwest of the Ohio River as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall be in force and operate in the Indiana Territory, whenever satisfactory evidence shall be given to the governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided*, That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the general assembly shall not be less than seven nor more than nine, to be apportioned by the governor to the several counties in said Territory agreeably to the number of free males of the age of twenty-one years and upwards which they may respectively contain.

SEC. 5. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the territory of the United States northwest of the Ohio River, further than to prohibit the exercise thereof within the Indiana Territory, from and after the aforesaid fourth day of July next: *Provided*, That whenever that part of the territory of the United States which lies to the eastward of a line beginning at the mouth of the Great Miami River, and running thence due north to the territorial line between the United States and Canada, shall be erected into an independent State and admitted into the Union on an equal footing with the original States, thenceforth said line shall become and remain permanently the boundary-line between such State and the Indiana Territory; anything in this act contained to the contrary notwithstanding.

SEC. 6. *And be it further enacted*, That until it shall be otherwise ordered by the legislatures of the said territories respectively, Chillicothe, on Scioto River, shall be the seat of the government of the territory of the United States northwest of the Ohio River; and that Saint Vincennes, on the Wabash River, shall be the seat of the government for the Indiana Territory.

Approved, May 7, 1800.

TERRITORIAL GOVERNMENT OF ILLINOIS—1809

[TENTH CONGRESS, SECOND SESSION]

An Act for dividing the Indiana Territory into two separate governments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of March next, all that part of the Indiana Territory which lies west of the Wabash River, and a direct line drawn from the said Wabash River and Post Vincennes due north to the territorial line between the United States and Canada, shall, for the purpose of temporary government, constitute a separate Territory, and be called Illinois.

SEC. 2. *And be it further enacted*, That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, intituled "An act to provide for the government of the territory northwest of the river Ohio;" and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio by the said ordinance.

SEC. 3. *And be it further enacted*, That the officers for the said Territory, who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid and the laws of the United States have been provided and established for similar officers in the Indiana Territory. And the duties and emoluments of superintendent of Indian affairs shall be united with those of governor: *Provided*, That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized, and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted*, That so much of the ordinance for the government of the territory of the United States northwest of the Ohio River, as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall be in force and operate in the Illinois Territory, whenever satisfactory evidence shall be given to the governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided*, That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the general assembly shall not be less than seven, nor more than nine, to be apportioned by the governor to the several counties in the said Territory, agreeably to the number of free males of the age of twenty-one years and upwards, which they may respectively contain.

SEC. 5. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the Indiana Territory, further than to prohibit the exercise thereof within the Illinois Territory from and after the aforesaid first day of March next.

SEC. 6. *And be it further enacted*, That all suits, process, and proceedings which, on the first day of March next, shall be pending in the court of any county which shall be included within the said Territory of Illinois, and also all suits, process, and proceedings which, on the said first day of March next, shall be pending in the general court of the Indiana Territory, in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the Territory of Illinois aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana Territory had remained undivided.

SEC. 7. *And be it further enacted*, That nothing in this act contained shall be so construed as to prevent the collection of taxes which may on the first day of March next be due to the Indiana Territory on lands lying in the said Territory of Illinois.

SEC. 8. *And be it further enacted*, That until it shall be otherwise ordered by the legislature of the said Illinois Territory, Kaskaskia, on the Mississippi River, shall be the seat of government for the said Illinois Territory.

Approved, February 3, 1809.

ENABLING ACT FOR ILLINOIS—1818

[FIFTEENTH CONGRESS, FIRST SESSION]

An Act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Illinois be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit; Beginning at the mouth of the Wabash River; thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees thirty minutes; thence west to the middle of the Mississippi River; and thence down, along the middle of that river, to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the beginning: *Provided*, That the convention hereinafter provided for, when formed, shall ratify the

boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also*, That the said State shall have concurrent jurisdiction with the State of Indiana on the Wabash River, so far as said river shall form a common boundary to both, and also concurrent jurisdiction on the Mississippi River, with any State or States to be formed west thereof, so far as said river shall form a common boundary to both.

SEC. 3. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory six months previous to the day of election, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties as follows:

From the county of Bond, two representatives.
From the county of Madison, three representatives.
From the county of Saint Clair, three representatives.
From the county of Monroe, two representatives.
From the county of Randolph, two representatives.
From the county of Jackson, two representatives.
From the county of Johnson, two representatives.
From the county of Pope, two representatives.
From the county of Gallatin, three representatives.
From the county of White, two representatives.
From the county of Edwards, two representatives.
From the county of Crawford, two representatives.
From the county of Union, two representatives.
From the county of Washington, two representatives.
And from the county of Franklin, two representatives.

And the election for the representatives aforesaid shall be holden on the first Monday of July next, and the two following days, throughout the several counties in the said Territory, and shall be conducted in the same manner and under the same regulations as prescribed by the laws of the said Territory regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at the seat of government of the said Territory, on the first Monday of the month of August next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said Territory, and, if it be expedient, the convention shall be, and hereby is, authorized to form a constitution and State government; or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form for the people of said Territory a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to

the ordinance of the thirteenth of July, seventeen hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed: *And provided also*, That it shall appear, from the enumeration directed to be made by the legislature of the said Territory, that there are within the proposed State not less than forty thousand inhabitants.

SEC. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Illinois, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States and the said State.

First. That section numbered sixteen, in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township, for the use of schools.

Second. That all salt springs within such State, and the land reserved for the use of the same, shall be granted to the said State, for the use of the said State, and the same to be used under such terms, and conditions, and regulations as the legislature of the said State shall direct: *Provided*, The legislature shall never sell nor lease the same for a longer period than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within such State, and which shall be sold by Congress, from and after the first day of January, one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: two-fifths to be disbursed, under the direction of Congress, in making roads leading to the State; the residue to be appropriated, by the legislature of the State, for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university.

Fourth. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature: *Provided always*, That the four foregoing propositions, herein offered, are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January, one thousand eight hundred and nineteen, shall remain exempt from any tax laid by order, or under any authority, of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale: *And further*, That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt, as aforesaid, from all

taxes, for the term of three years, from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein.

SEC. 7. *And be it further enacted*, That all that part of the territory of the United States lying north of the State of Indiana, and which was included in the former Indiana Territory, together with that part of the Illinois Territory which is situated north of and not included within the boundaries prescribed by this act to the State thereby authorized to be formed, shall be, and hereby is, attached to and made a part of the Michigan Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid; and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects, with the other citizens of the Michigan Territory.

Approved, April 18, 1818.

ORDINANCE ACCEPTING THE ENABLING ACT—1818[a]

Whereas the Congress of the United States, in the act entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," passed the 18th of April, 1818, have offered to this convention, for their free acceptance or rejection, the following propositions, which, if accepted by the convention, are to be obligatory upon the United States, viz:

1. That section numbered 16 in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township for the use of schools;

2. That all salt springs within such State, and the lands reserved for the use of the same, shall be granted to the said State for the use of the said State, and the same to be used under such terms and conditions and regulations as the legislature of said State shall direct: *Provided*, The legislature shall never sell nor lease the same for a longer period than ten years at any one time;

3. That five per cent. of the net proceeds of the lands lying within such State, and which shall be sold by Congress from and after the 1st day of January, 1819, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: Two-fifths to be disbursed under the direction of Congress, in making roads leading to the State; the residue to be appropriated by the legislature of the State for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university;

4. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the

[a] Adopted at Kaskaskia, 26th August, 1818, by the convention which framed the first constitution of Illinois.

use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature;

And whereas the four foregoing propositions are offered on the condition that this convention shall provide by ordinance, irrevocably, without the consent of the United States, that every and each tract of land sold by the United States, from and after the 1st day of January, 1819, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale. [See chapter 89, section 36, and note.] And further, that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt as aforesaid from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States residing without the said State shall never be taxed higher than lands belonging to persons residing therein:

Therefore, this convention, on behalf of and by the authority of the people of the State, do accept of the foregoing propositions; and do further ordain and declare that every and each tract of land sold by the United States, from and after the 1st day of January, 1819, shall remain exempt from any tax laid by order or under any authority of the State, whether for State, county, or township, or any purpose whatever, for the term of five years from and after the day of sale; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein. And this convention do further ordain and declare that the foregoing ordinance shall not be revoked without the consent of the United States.

RESOLUTION OF CONGRESS—1818

[Fifteenth Congress, Second Session]

Resolution declaring the admission of the State of Illinois into the Union

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas, in pursuance of an act of Congress passed on the eighteenth day of April, one thousand eight hundred and eighteen, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," the people of said Territory did, on the twenty-sixth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so

formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Illinois shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 3, 1818.

CONSTITUTION OF ILLINOIS—1818 * [a]

The people of the Illinois Territory, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of 1787, and the law of Congress approved April 18, 1818, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," in order to establish justice, promote the welfare, and secure the blessings of liberty to themselves and their posterity, do, by their representatives in convention, ordain and establish the following constitution or form of government; and do mutually agree with each other to form themselves into a free and independent State, by the name of the State of Illinois. And they do hereby ratify the boundaries assigned to such State by the act of Congress aforesaid, which are as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same and with the line of Indiana to the northwest corner of said State; thence east with the line of the same State to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River; and thence down along the middle of that river to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the beginning.

Article I

Section 1. The powers of the government of the State of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another.

Sec. 2. No person or collection of persons being one of those departments shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

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* Verified from text in Vol. II, pp. 1889–1892, of "Debates and Proceedings" of Constitutional Convention of 1869. See note to constitution of 1870.

[a] This constitution was framed by a convention which met August 1, 1818, and completed its labors August 26, 1818. It was not submitted to the people.

ARTICLE II

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist in a senate and house of representatives, both to be elected by the people.

SEC. 2. The first election for senators and representatives shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday in August, 1820; and forever after elections shall be held once in two years, on the first Monday of August, in each and every county, at such places therein as may be provided by law.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-one years; who shall not be a citizen of the United States, and an inhabitant of this State; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and who, moreover, shall not have paid a State or county tax.

SEC. 4. The senators, at their first session herein provided for, shall be divided by lot from their respective counties or districts, as near as can be, into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, and those of the second class at the expiration of the fourth year, so that one-half thereof, as near as possible, may be biennially chosen forever thereafter.

SEC. 5. The number of senators and representatives shall, at the first session of the general assembly holden after the returns herein provided for are made, be fixed by the general assembly, and apportioned among the several counties or districts to be established by law, according to the number of white inhabitants. The number of representatives shall not be less than twenty-seven, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and the number of senators shall never be less than one-third nor more than one-half of the number of representatives.

SEC. 6. No person shall be a senator who has not arrived at the age of twenty-five years, who shall not be a citizen of the United States, and who shall not have resided one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and shall not, moreover, have paid a State or county tax.

SEC. 7. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted.) Each house shall judge of the qualifications and elections of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum, but a smaller number

may adjourn from day to day, and compel the attendance of absent members.

SEC. 8. Each house shall keep a journal of its proceedings and publish them. The yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 9. Any two members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public, or to any individual, and have the reasons of their dissent entered on the journals.

SEC. 10. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 11. When vacancies happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 12. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 13. Each house may punish, by imprisonment during its session, any person not a member who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence; provided such imprisonment shall not at any one time exceed twenty-four hours.

SEC. 14. The doors of each house and of committees of the whole shall be kept open, except in such cases as in the opinion of the house require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 15. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 16. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speakers of the respective houses.

SEC. 17. The style of the laws of this State shall be, "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 18. The general assembly of this State shall not allow the following officers of government greater or smaller annual salaries than as follows, until the year 1824: The governor, $1,000; and the secretary of state, $600.

SEC. 19. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time.

SEC. 20. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 21. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at the rising of each session of the general assembly.

SEC. 22. The house of representatives shall have the sole power of impeaching, but a majority of all the members present must concur in an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor, and all other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. The first session of the general assembly shall commence on the first Monday of October next, and forever after the general assembly shall meet on the first Monday in December next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

SEC. 25. No judge of any court of law or equity, secretary of state, attorney-general, attorney for the State, register, clerk of any court of record, sheriff, or collector, member of either house of Congress, or person holding any lucrative office under the United States or this State, (provided that appointments in the militia, postmasters, or justices of the peace shall not be considered lucrative offices,) shall have a seat in the general assembly; nor shall any person holding any office of honor or profit under the Government of the United States hold any office of honor or profit under the authority of this State.

SEC. 26. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 27. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the State six months next preceding the election, shall enjoy the right of an elector; but no person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.

SEC. 28. All votes shall be given *viva voce* until altered by the general assembly.

SEC. 29. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 30. The general assembly shall have full power to exclude from the privilege of electing or being elected any person convicted of bribery, perjury, or any other infamous crime.

SEC. 31. In the year 1820, and every fifth year thereafter, an enumeration of all the white inhabitants of the State shall be made in such manner as shall be directed by law.

SEC. 32. All bills for raising a revenue shall originate in the house of representatives, subject, however, to amendment or rejection as in other cases.

Article III

Section 1. The executive power of the State shall be vested in a governor.

Sec. 2. The first election of governor shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday of August, in the year of our Lord 1822. And forever after, elections for governor shall be held once in four years, on the first Monday in August. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall respectively vote for members thereof. The returns for every election of governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly in such manner as shall be prescribed by law.

Sec. 3. The first governor shall hold his office until the first Monday of December, in the year of our Lord 1822, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of four years and until another governor shall be elected and qualified; but he shall not be eligible for more than four years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States thirty years; two years of which next preceding his election he shall have resided within the limits of this State.

Sec. 4. He shall, from time to time, give the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

Sec. 5. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

Sec. 6. The governor shall, at stated times, receive a salary for his services, which shall neither be increased nor diminished during the term for which he shall have been elected.

Sec. 7. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. When any officer, the right of whose appointment is, by this constitution, vested in the general assembly, or in the governor and senate, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly.

Sec. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purpose for which they shall have been convened.

Sec. 10. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 11. There shall be elected in each and every county in the said State, by those who are qualified to vote for members of the general assembly, and at the same time and places where the election for such members shall be held, one sheriff and one coroner, whose election shall be subject to such rules and regulations as shall be prescribed by law. The said sheriffs and coroners respectively, when elected, shall continue in office two years, be subject to removal and disqualification, and such other rules and regulations as may be from time to time prescribed by law.

Sec. 12. In case of disagreement between two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he thinks proper, provided it be not a period beyond the next constitutional meeting of the same.

Sec. 13. A lieutenant-governor shall be chosen at every election for governor in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor and whom as lieutenant-governor.

Sec. 14. He shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and whenever the senate are equally divided, to give the casting vote.

Sec. 15. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own members as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the speaker of the senate shall in like manner administer the government.

Sec. 16. The lieutenant-governor, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives and no more; and during the time he administers the government as governor, he shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

Sec. 17. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the general assembly, it shall be the duty of the secretary for the time being to convene the senate for the purpose of choosing a speaker.

Sec. 18. In case of an impeachment of the governor, his removal from office, death, refusal to qualify, resignation or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy.

Sec. 19. The governor for the time being, and the judges of the supreme court or a major part of them, together with the governor, shall be, and are hereby, constituted a council to revise all bills about to be passed into laws by the general assembly; and for that purpose shall assemble themselves from time to time when the general assembly shall be convened, for which nevertheless they shall not receive any salary or consideration under any pretence whatever; and all bills which have passed the senate and house of representatives shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revisal and consideration, it should appear improper to the said council or a majority of them, that the bill should become a law of this State, they shall return the same, together with their objections thereto, in writing, to the senate or house of representatives, (in whichsoever the same shall have originated,) who shall enter the objections set down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, the said senate or house of representatives shall, notwithstanding the said objections, agree to pass the same by a majority of the whole number of members elected, it shall, together with the said objections, be sent to the other branch of the general assembly, where it shall also be reconsidered, and if approved by a majority of all the members elected, it shall become a law. If any bill shall not be returned within ten days after it shall have been presented, the same shall be a law, unless the general assembly shall by their adjournment, render a return of the said bill in ten days impracticable; in which case the said bill shall be returned on the first day of the meeting of the general assembly, after the expiration of the said ten days, or be a law.

Sec. 20. The governor shall nominate, and by and with the advice and consent of the senate appoint, a secretary of state, who shall keep a fair register of the official acts of the governor, and, when required, shall lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law.

Sec. 21. The State treasurer and public printer or printers for the State shall be appointed biennially by the joint vote of both branches of the general assembly: *Provided*, That during the recess of the same the governor shall have power to fill such vacancies as may happen in either of said offices.

Sec. 22. The governor shall nominate, and by and with the advice and consent of the senate appoint, all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for: *Provided, however*, That inspectors, collectors, and their deputies, surveyors of the highways, constables, jailers, and such inferior officers whose jurisdiction may be confined within the limits of the county, shall be appointed in such manner as the general assembly shall prescribe.

Article IV

Section 1. The judicial power of this State shall be vested in one supreme court, and such inferior courts as the general assembly shall, from time to time, ordain and establish.

SEC. 2. The supreme court shall be holden at the seat of government, and shall have an appellate jurisdiction only, except in cases relating to the revenue, in cases of *mandamus*, and in such cases of impeachment as may be required to be tried before it.

SEC. 3. The supreme court shall consist in a chief-justice and three associates, any two of whom shall form a quorum. The number of justices may, however, be increased by the general assembly after the year 1824.

SEC. 4. The justices of the supreme court and the judges of the inferior courts shall be appointed by joint ballot of both branches of the general assembly, and commissioned by the governor, and shall hold their offices during good behavior until the end of the first session of the general assembly, which shall be begun and held after the 1st day of January, in the year of our Lord 1824, at which time their commissions shall expire; and until the expiration of which time the said justices, respectively, shall hold circuit courts in the several counties, in such manner, and at such times, and shall have and exercise such jurisdiction as the general assembly shall by law prescribe. But ever after the aforesaid period the justices of the supreme court shall be commissioned during good behavior, and the justices thereof shall not hold circuit courts unless required by law.

SEC. 5. The judges of the inferior courts shall hold their offices during good behavior, but for any reasonable cause, which shall not be sufficient ground for impeachment, both the judges of the supreme and inferior courts shall be removed from office on the address of two-thirds of each branch of the general assembly: *Provided always*, That no member of either house of the general assembly, nor any person connected with a member by consanguinity or affinity, shall be appointed to fill the vacancy occasioned by such removal. The said justices of the supreme court, during their temporary appointment, shall receive an annual salary of one thousand dollars, payable quarter-yearly out of the public treasury. The judges of the inferior courts, and the justices of the supreme court who may be appointed after the end of the first session of the general assembly which shall be begun and held after the first day of January, in the year of our Lord 1824, shall have adequate and competent salaries, which shall not be diminished during their continuance in office.

SEC. 6. The supreme court, or a majority of the justices thereof, the circuit courts, or the justices thereof, shall, respectively, appoint their own clerks.

SEC. 7. All process, writs, and other proceedings shall run in the name of "The people of the State of Illinois." All prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois," and conclude "Against the peace and dignity of the same."

SEC. 8. A competent number of justices of the peace shall be appointed in each county, in such manner as the general assembly may direct, whose time of service, power, and duties shall be regulated and defined by law. And justices of the peace, when so appointed, shall be commissioned by the governor.

Article V

Section 1. The militia of the State of Illinois shall consist of all free, male, able-bodied persons, (negroes, mulattoes, and Indians excepted,) resident in the State, between the age of eighteen and forty-five years, (except such persons as now are, or hereafter may be, exempted by the law of the United States or of this State,) and shall be armed, equipped, and trained as the general assembly may provide by law.

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person or persons shall pay an equivalent for such exemptions.

Sec. 3. Company, battalion, and regimental officers, staff officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

Sec. 4. Brigadier and major generals shall be elected by the officers of their brigades and divisions respectively.

Sec. 5. All militia officers shall be commissioned by the governor, and may hold their commissions during good behavior, or until they arrive at the age of sixty years.

Sec. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

Article VI

Section 1. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona-fide* consideration received or to be received for their service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or if made in this State, where the term of service exceeds one year, be of at least validity, except those given in cases of apprenticeship.

Sec. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt-works near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year 1825. Any violation of this article shall effect the emancipation of such person from his obligation to service.

Sec. 3. Each and every person who has been bound to service by contract or indenture in virtue of the laws of Illinois Territory heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws shall serve out the time appointed by said laws: *Provided, however*, That the children hereafter born of such person, negroes, or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age

of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.

Article VII

Section 1. Whenever two-thirds of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors, at the next election of members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen in the same manner, at the same place, and by the same electors that choose the general assembly; and which convention shall meet within three months after said election, for the purpose of revising, altering, or amending this constitution.

Article VIII

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare:

Section 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights; among which are those of enjoying and defending life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

Sec. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

Sec. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

Sec. 5. That elections shall be free and equal.

Sec. 6. That the right of the trial by jury shall remain inviolate.

Sec. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 8. That no freeman shall be imprisoned or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land. And all lands which have been granted as a common to the inhabitants of any town, hamlet, village,

or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village, or corporation; and the said commons shall not be leased, sold, or divided under any pretence whatever: *Provided, however*, That nothing in this section shall be so construed as to affect the commons of Cahokia or Prairie du Pont: *Provided also*, That the general assembly shall have power and authority to grant the same privileges to the inhabitants of the said villages of Cahokia and Prairie du Pont as are hereby granted to the inhabitants of other towns, hamlets, and villages.

Sec. 9. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor; and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; and that he shall not be compelled to give evidence against himself.

Sec. 10. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, in time of war, or public danger, by leave of the courts, for oppression or misdemeanor in office.

Sec. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use, without the consent of his representatives in the general assembly, nor without just compensation being made to him.

Sec. 12. Every person within this State ought to find a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

Sec. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

Sec. 14. All penalties shall be proportioned to the nature of the offence, the true design of all punishment being to reform, not to exterminate, mankind.

Sec. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

Sec. 16. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 17. That no person shall be liable to be transported out of this State for any offence committed within the same.

Sec. 18. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 19. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

SEC. 20. That the mode of levying a tax shall be by valuation, so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession.

SEC. 21. That there shall be no other banks or moneyed institutions in this State but those already provided by law, except a State bank and its branches, which may be established and regulated by the general assembly of the State as they may think proper.

SEC. 22. The printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly or of any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 23. In prosecutions for the publication of papers investigating the official conduct of officers, or of men acting in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right of determining both the law and the fact, under the direction of the court, as in other cases.

SCHEDULE

SECTION 1. That no inconveniences may arise from the change of a territorial to a permanent State government, it is declared by the convention that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government in virtue of the laws now in force.

SEC. 2. All fines, penalties, and forfeitures due and owing to the Territory of Illinois shall inure to the use of the State. All bonds executed to the governor, or to any other officer in his official capacity in the Territory, shall pass over to the governor or to the officers of the State, and their successors in office, for the use of the State, by him or by them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. No sheriff or collector of public moneys shall be eligible to any office in this State, until they have paid over, according to law, all moneys which they may have collected by virtue of their respective offices.

SEC. 4. There shall be elected in each county three county commissioners for the purpose of transacting all county business, whose time of service, power, and duties shall be regulated and defined by law.

SEC. 5. The governor, secretary, and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 6. The governor of this State shall make use of his private seal until a State seal shall be provided.

SEC. 7. The oaths of office herein directed to be taken may be admin-

istered by any justice of the peace until the general assembly shall otherwise direct.

SEC. 8 [Apportionment of senators and representatives.[a]]

SEC. 9. The president of the convention shall issue writs of election, directed to the several sheriffs of the several counties, or in case of the absence or disability of any sheriff, then to the deputy sheriff, and in case of the absence or disability of the deputy sheriff, then such writ to be directed to the coroner, requiring them to cause an election to be held for governor, lieutenant-governor, Representative to the present Congress of the United States, and members to the general assembly, and sheriffs and coroners in the respective counties; such election to commence on the third Thursday of September next, and to continue for that and the two succeeding days; and which election shall be conducted in the manner prescribed by the existing election laws of the Illinois Territory; and the said governor, lieutenant-governor, members of the general assembly, sheriffs, and coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this constitution, and until their successor or successors are qualified, and no longer.

SEC. 10. An auditor of public accounts, an attorney-general, and such other officers for the State as may be necessary, may be appointed by the general assembly, whose duties may be regulated by law.

SEC. 11. It shall be the duty of the general assembly to enact such laws as may be necessary and proper to prevent the practice of duelling.

SEC. 12. All white male inhabitants above the age of twenty-one years, who shall be actual residents of this State at the signing of this constitution shall have a right to vote at the election to be held on the third Thursday and the two following days of September next.

SEC. 13. The seat of government for the State shall be at Kaskaskia until the general assembly shall otherwise provide. The general assembly, at their first session holden under the authority of this constitution, shall petition the Congress of the United States to grant to this State a quantity of land, to consist of not more than four, nor less than one section, or to give to this State the right of pre-emption in the purchase of the said quantity of land; the said land to be situate on the Kaskaskia River, and, as near as may be, east of the third principal meridian on said river. Should the prayer of such petition be granted, the general assembly, at their next session thereafter, shall provide for the appointment of five commissioners to make the selection of said land so granted; and shall further provide for laying out a town upon the land so selected; which town, so laid out, shall be the seat of government of this State for the term of twenty years. Should, however, the prayer of said petition not be granted, the general assembly shall have power to make such provisions for a permanent seat of government as may be necessary, and shall fix the same where they may think best.

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[a] This section was changed by the following acts: Laws 1821, (14 Feb.,) 154. Resolution recommending a special session to make a new apportionment, Laws 1825, 186. Act in pursuance thereof: Laws 1826, (12 Jan.,) 45; Laws 1831, (7 Feb.,) 5; Laws 1836, (14 Jan.,) 268. Same repealed: R. S., 1845, 455; Laws 1841, (26 Feb.,) 23; Laws 1843, (3 Feb.,) 10; *id.*, (6 Feb.,) 11. Acts providing for special election of senator and representatives: Laws 1843, 136, 137. Apportionment acts amended: Laws 1845, (21 Feb.,) 51; *id.*, (1 Mar.,) 120; *id.*, (15 Jan.,) 191; *id.*, (23 Jan.,) 197. General act: Laws 1847, (25 Feb.,) 3.

SEC. 14. Any person of thirty years of age who is a citizen of the United States and has resided within the limits of this State two years next preceding his election, shall be eligible to the office of lieutenant-governor; anything in the thirteenth section of the third article of this constitution contained to the contrary notwithstanding.

RESOLUTION OF CONGRESS—1818 [a]

Resolution declaring the admission of the State of Illinois into the Union

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas, in pursuance of an act of Congress passed on the eighteenth day of April, one thousand eight hundred and eighteen, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," the people of said Territory did, on the twenty-sixth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Illinois shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 3, 1818.

CONSTITUTION OF ILLINOIS—1848 * [b]

PREAMBLE

We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, in order to form a more perfect government, establish

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* Verified by text in Vol. II, pp. 1881–1888 of "Debates and Proceedings" of Constitutional Convention of 1869; see note to Constitution of 1870.

See "Journal of the Convention Assembled at Springfield, June 7, 1847, in pursuance of an act of the general assembly of the State of Illinois, entitled "An act to provide for the Call of a Convention" approved February 20, 1847, for the purpose of Altering, Amending, or Revising the Constitution of the State of Illinois. Published by authority of the Convention. Springfield, Lonphier & Walker, Printers, 1847." pp. 514–577.

See also, the debates in this Convention, reported in the "State Register," a tri-weekly paper, Nos. 1–36, June 12–Sept. 3, 1847, in the office of the Secretary of State, Springfield, Illinois.

[a] Statutes at Large, Vol. III, p. 536.

[b] This Constitution was framed by a Convention which met June 7, 1847, and adjourned August 31, 1847. It was submitted to the people March 5, 1848, and adopted.

justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Illinois.

Article I

BOUNDARIES

Section 1. The boundaries and jurisdiction of the State shall be as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River, and thence down, along the middle of that river, to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, That this State shall exercise such jurisdiction upon the Ohio River as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

Article II

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT

Section 1. The powers of the government of the State of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Sec. 2. No person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted, and all acts in contravention of this section shall be expressly directed all acts in contravention of this section shall be void.

Article III

OF THE LEGISLATIVE DEPARTMENT

Section 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

Sec. 2. The first election for senators and representatives shall be held on the Tuesday after the first Monday in November, one thousand eight hundred and forty-eight; and thereafter, elections for members of the general assembly shall be held once in two years, on the Tuesday next after the first Monday in November, in each and every county, at such places therein as may be provided by law.

Sec. 3. No person shall be a representative who shall not have attained the age of twenty-five years; who shall not be a citizen of the United States, and three years an inhabitant of this State; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such

county or district shall have been so long erected, but, if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State; and who, moreover, shall not have paid a State or county tax.

SEC. 4. No person shall be a senator who shall not have attained the age of thirty years; who shall not be a citizen of the United States, five years an inhabitant of this State, and one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected, but, if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and shall not, moreover, have paid a State or county tax.

SEC. 5. The senators at their first session herein provided for shall be divided by lot, as near as can be, into two classes. The seats of the first class shall be vacated at the expiration of the second year, and those of the second class at the expiration of the fourth year; so that one-half thereof, as near as possible, may be biennially chosen forever thereafter.

SEC. 6. The senate shall consist of twenty-five members, and the house of representatives shall consist of seventy-five members, until the population of the State shall amount to one million of souls, when five members may be added to the house, and five additional members for every five hundred thousand inhabitants thereafter, until the whole number of representatives shall amount to one hundred; after which the number shall neither be increased nor diminished; to be apportioned among the several counties according to the number of white inhabitants. In all future apportionments, where more than one county shall be thrown into a representative district, all the representatives to which said counties may be entitled shall be elected by the entire district.

SEC. 7. No person elected to the general assembly shall receive any civil appointment within this State, or to the senate of the United States, from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment, shall be void; nor shall any member of the general assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he shall have been elected, or during one year after the expiration thereof.

SEC. 8. In the year one thousand eight hundred and fifty-five, and every tenth year thereafter, an enumeration of the inhabitants of this State shall be made in such manner as shall be directed by law; and in the year eighteen hundred and fifty, and every tenth year thereafter, the census taken by authority of the Government of the United States shall be adopted by the general assembly as the enumeration of this State; and the number of senators and representatives shall, at the first regular session holden after the returns herein provided for are made, be apportioned among the several counties or districts to be established by law, according to the number of white inhabitants.

Sec. 9. Senatorial and representative districts shall be composed of contiguous territory bounded by county lines; and only one senator allowed to each senatorial, and not more than three representatives to any representative district: *Provided*, That cities and towns, containing the requisite population, may be erected into separate districts.

Sec. 10. In forming senatorial and representative districts, counties, containing a population of not more than one-fourth over the existing ratio, shall form separate districts, and the excess shall be given to the nearest county or counties not having a senator or representative, as the case may be, which has the largest white population.

Sec. 11. The first session of the general assembly shall commence on the first Monday of January, one thousand eight hundred and forty-nine; and forever after the general assembly shall meet on the first Monday of January next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

Sec. 12. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted). Each house shall judge of the qualifications and election of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum: but a smaller number may adjourn from day to day, and compel the attendance of absent members.

Sec. 13. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

Sec. 14. Any two members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public, or to any individual, and have the reasons of their dissent entered on the journals.

Sec. 15. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of all the members elected, expel a member, but not a second time for the same cause; and the reason for such expulsion shall be entered upon the journal, with the names of the members voting upon the question.

Sec. 16. When vacancies shall happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

Sec. 17. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 18. Each house may punish, by imprisonment during its session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

Sec. 19. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 20. The style of the laws of this State shall be: "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 21. Bills may originate in either house, but may be altered, amended, or rejected, by the other; and, on the final passage of all bills, the vote shall be by ayes and noes, and shall be entered on the journal; and no bill shall become a law without the concurrence of a majority of all the members elect in each house.

SEC. 22. Bills making appropriations for the pay of the members and officers of the general assembly, and for the salaries of the officers of the government, shall not contain any provision on any other subject.

SEC. 23. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house, where such bill is so depending, shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speakers of their respective houses; and no private or local law which may be passed by the general assembly shall embrace more than one subject, and that shall be expressed in the title. And no public act of the general assembly shall take effect or be in force until the expiration of sixty days from the end of the session at which the same may be passed, unless, in case of emergency, the general assembly shall otherwise direct.

SEC. 24. The sum of two dollars per day, for the first forty-two days' attendance, and one dollar per day for each day's attendance thereafter, and ten cents for each necessary mile's travel, going to and returning from the seat of government, shall be allowed to the members of the general assembly, as a compensation for their services, and no more. The speaker of the house of representatives shall be allowed the sum of one dollar per day, in addition to his per diem as a member.

SEC. 25. The per diem and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses, and entered on the journal, and published at the close of each session.

SEC. 26. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with, the laws at the rising of each session of the general assembly. And no person, who has been or may be a collector or holder of the public moneys, shall be eligible to a seat in either house of the general assembly, nor be eligible to any office of profit or trust in this State, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 27. The house of representatives shall have the sole power of impeaching; but a majority of all the members elected must concur in an impeachment. All impeachments shall be tried by the senate; and when sitting for that purpose the senators shall be upon oath, or affirmation, to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 28. The governor, and other civil officers under this State,

shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 29. No judge of any court of law or equity, secretary of state, attorney-general, attorney for the State, recorder, clerk of any court of record, sheriff, or collector, member of either house of Congress, or person holding any lucrative office under the United States or of this State—provided that appointments in the militia, or justices of the peace, shall not be considered lucrative offices—shall have a seat in the general assembly; nor shall any person holding any office of honor or profit under the Government of the United States hold any office of honor or profit under the authority of this State.

SEC. 30. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the Constitution of the United States, and of this State, and also an oath of office.

SEC. 31. The general assembly shall have full power to exclude from the privilege of electing, or being elected, any person convicted of bribery, perjury, or other infamous crime.

SEC. 32. The general assembly shall have no power to grant divorces, but may authorize the courts of justice to grant them for such cause as may be specified by law: *Provided*, That such laws be general and uniform in their operation.

SEC. 33. The general assembly shall never grant or authorize extra compensation to any public officer, agent, servant, or contractor, after the service shall have been rendered, or the contract entered into.

SEC. 34. The general assembly shall direct by law in what manner suits may be brought against the State.

SEC. 35. The general assembly shall have no power to authorize lotteries for any purpose, nor to revive or extend the charter of the State bank, or the charter of any other bank heretofore existing in this State, and shall pass laws to prohibit the sale of lottery-tickets in this State.

SEC. 36. The general assembly shall have no power to authorize, by private or special law, the sale of any lands or other real estate belonging in whole or in part to any individual or individuals.

SEC. 37. Each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of each house, nor exceed the amount of revenue authorized by law to be raised in such time: *Provided*, The State may, to meet casual deficits or failures in revenue, contract debts never to exceed in the aggregate fifty thousand dollars; and the moneys thus borrowed shall be applied to the purpose for which they were obtained, or to repay the debt thus made, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged) shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the

people, and have received a majority of all the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrepealable until such debt be paid: *And provided further*, That the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

SEC. 38. The credit of the State shall not, in any manner, be given to, or in aid of, any individual, association, or corporation.

SEC. 39. The general assembly shall provide, by law, that the fuel and stationery furnished for the use of the State, the copying, printing, binding, and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let, by contract, to the lowest responsible bidder; and that no member of the general assembly, or other officer of the State, shall be interested, either directly or indirectly, in any such contract: *Provided*, That the general assembly may fix a maximum price.

SEC. 40. Until there shall be a new apportionment of senators and representatives, the State shall be divided into senatorial and representative districts; and the senators and representatives shall be apportioned among the several districts as follows, viz:

SENATORIAL DISTRICTS [a]

1. The counties of Alexander, Union, Pulaski, Johnson, Massac, Pope, and Hardin shall constitute the first senatorial district, and shall be entitled to one senator.

2. The counties of Gallatin, Saline, Williamson, Franklin, and White shall constitute the second senatorial district, and be entitled to one senator.

3. The counties of Jefferson, Wayne, Marion and Hamilton shall constitute the third senatorial district, and be entitled to one senator.

4. The counties of Washington, Perry, Randolph, and Jackson shall constitute the fourth senatorial district, and be entitled to one senator.

5. The counties of Saint Clair and Monroe shall constitute the fifth senatorial district, and be entitled to one senator.

6. The counties of Madison and Clinton shall constitute the sixth senatorial district, and be entitled to one senator.

7. The counties of Christian, Shelby, Montgomery, Bond, and Fayette shall constitute the seventh senatorial district, and be entitled to one senator.

8. The counties of Effingham, Jasper, Clay, Richland, Lawrence, Edwards, and Wabash shall constitute the eighth senatorial district, and be entitled to one senator.

9. The counties of Edgar, Clark, and Crawford shall constitute the ninth senatorial district, and be entitled to one senator.

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[a] This apportionment was changed by the following acts: Creating 25 senatorial and 58 representative districts, February 27, 1854; creating 25 senatorial and 61 representative districts, January 31, 1861.

10. The counties of Vermillion, Champaign, Piatt, Moultrie, Coles, and Cumberland shall constitute the tenth senatorial district, and be entitled to one senator.

11. The counties of Tazewell, McLean, Logan, De Witt, and Macon shall constitute the eleventh senatorial district, and be entitled to one senator.

12. The counties of Sangamon, Menard, and Mason shall constitute the twelfth senatorial district, and be entitled to one senator.

13. The counties of Macoupin, Jersey, Greene, and Calhoun shall constitute the thirteenth senatorial district, and be entitled to one senator.

14. The counties of Morgan, Scott, and Cass shall constitute the fourteenth senatorial district, and be entitled to one senator.

15. The counties of Adams and Pike shall constitute the fifteenth senatorial district, and be entitled to one senator.

16. The counties of McDonough, Schuyler, Brown, and Highland shall constitute the sixteenth senatorial district, and be entitled to one senator.

17. The counties of Hancock and Henderson shall constitute the seventeenth senatorial district, and be entitled to one senator.

18. The counties of Fulton and Peoria shall constitute the eighteenth senatorial district, and be entitled to one senator.

19. The counties of Rock Island, Henry, Mercer, Warren, Knox, and Stark shall constitute the nineteenth senatorial district, and be entitled to one senator.

20. The counties of La Salle, Bureau, Putnam, Marshall, Woodford, Livingston, and Grundy shall constitute the twentieth senatorial district, and be entitled to one senator.

21. The counties of Du Page, Kendall, Will, and Iroquois shall constitute the twenty-first senatorial district, and be entitled to one senator.

22. The counties of Ogle, Lee, De Kalb, and Kane shall constitute the twenty-second senatorial district, and be entitled to one senator.

23. The counties of Jo Daviess, Stephenson, Carroll, and Whitesides shall constitute the twenty-third senatorial district, and be entitled to one senator.

24. The counties of McHenry, Boone, and Winnebago shall constitute the twenty-fourth senatorial district, and be entitled to one senator.

25. The counties of Cook and Lake shall constitute the twenty-fifth senatorial district, and be entitled to one senator.

REPRESENTATIVE DISTRICTS

1. The counties of Union, Alexander, and Pulaski shall constitute the first representative district, and be entitled to one representative.

2. The counties of Massac, Pope, and Hardin shall constitute the second representative district, and be entitled to one representative.

3. The counties of Gallatin and Saline shall constitute the third representative district, and be entitled to one representative.

4. The counties of Johnson and Williamson shall constitute the fourth representative district, and be entitled to one representative.

5. The counties of Jackson and Franklin shall constitute the fifth representative district, and be entitled to one representative.

6. The counties of Marion, Jefferson, Wayne, and Hamilton shall constitute the sixth representative district, and be entitled to three representatives: *Provided*, That no county in said district shall have more than one of said representatives, and the county from which a senator shall be selected shall not be entitled to a representative residing in said county.

7. The county of White shall constitute the seventh representative district, and be entitled to one representative.

8. The counties of Wabash and Edwards shall constitute the eighth representative district, and be entitled to one representative.

9. The counties of Lawrence and Richland shall constitute the ninth representative district, and be entitled to one representative.

10. The counties of Crawford and Jasper shall constitute the tenth representative district, and be entitled to one representative.

11. The county of Coles shall constitute the eleventh representative district, and be entitled to one representative.

12. The county of Clark shall constitute the twelfth representative district, and be entitled to one representative.

13. The counties of Cumberland, Effingham, and Clay, shall constitute the thirteenth representative district, and be entitled to one representative.

14. The county of Fayette shall constitute the fourteenth representative district, and be entitled to one representative.

15. The counties of Montgomery, Bond, and Clinton shall constitute the fifteenth representative district, and be entitled to two representatives.

16. The counties of Washington and Perry shall constitute the sixteenth representative district, and be entitled to one representative.

17. The county of Randolph shall constitute the seventeenth representative district, and be entitled to one representative.

18. The county of Monroe shall constitute the eighteenth representative district, and be entitled to one representative.

19. The county of Saint Clair shall constitute the nineteenth representative district, and be entitled to two representatives.

20. The county of Madison shall constitute the twentieth representative district, and be entitled to two representatives.

21. The county of Macoupin shall constitute the twenty-first representative district, and be entitled to one representative.

22. The counties of Jersey and Greene shall constitute the twenty-second representative district, and be entitled to two representatives.

23. The county of Scott shall constitute the twenty-third representative district, and be entitled to one representative.

24. The county of Morgan shall constitute the twenty-fourth representative district, and be entitled to two representatives.

25. The counties of Cass and Menard shall constitute the twenty-fifth representative district, and be entitled to one representative.

26. The county of Sangamon shall constitute the twenty-sixth representative district, and be entitled to two representatives.

27. The counties of Mason and Logan shall constitute the twenty-seventh representative district, and be entitled to one representative.

28. The county of Tazewell shall constitute the twenty-eighth representative district, and be entitled to one representative.

29. The counties of McLean and De Witt shall constitute the twenty-ninth representative district, and be entitled to one representative.

30. The county of Vermillion shall constitute the thirtieth representative district, and be entitled to one representative.

31. The county of Edgar shall constitute the thirty-first representative district, and be entitled to one representative.

32. The counties of Champaign, Piatt, Moultrie, and Macon shall constitute the thirty-second representative district, and be entitled to one representative.

33. The counties of Shelby and Christian shall constitute the thirty-third representative district, and be entitled to one representative.

34. The counties of Pike and Calhoun shall constitute the thirty-fourth representative district, and be entitled to two representatives.

35. The counties of Adams, Highland, and Brown shall constitute the thirty-fifth representative district, and be entitled to three representatives.

36. The county of Schuyler shall constitute the thirty-sixth representative district, and be entitled to one representative.

37. The county of Hancock shall constitute the thirty-seventh representative district, and be entitled to two representatives.

38. The county of McDonough shall constitute the thirty-eighth representative district, and be entitled to one representative.

39. The county of Fulton shall constitute the thirty-ninth representative district, and be entitled to two representatives.

40. The county of Peoria shall constitute the fortieth representative district, and be entitled to one representative.

41. The county of Knox shall constitute the forty-first representative district, and be entitled to one representative.

42. The counties of Mercer, Warren, and Henderson shall constitute the forty-second representative district, and be entitled to two representatives.

43. The counties of Rock Island, Henry, and Stark shall constitute the forty-third representative district, and be entitled to one representative.

44. The counties of Whitesides and Lee shall constitute the forty-fourth representative district, and be entitled to one representative.

45. The counties of Carroll and Ogle shall constitute the forty-fifth representative district, and be entitled to one representative.

46. The counties of Jo Daviess and Stephenson shall constitute the forty-sixth representative district, and be entitled to two representatives.

47. The county of Winnebago shall constitute the forty-seventh representative district, and be entitled to one representative.

48. The counties of Putnam, Marshall, and Woodford shall constitute the forty-eighth representative district, and be entitled to one representative.

49. The counties of La Salle, Grundy, Livingston, and Bureau shall constitute the forty-ninth representative district, and be entitled to two representatives.

50. The counties of Du Page, Kendall, Will, and Iroquois shall constitute the fiftieth representative district, and be entitled to three representatives.

51. The counties of Kane and De Kalb shall constitute the fifty-first representative district, and be entitled to two representatives.

52. The counties of Boone and McHenry shall constitute the fifty-second representative district, and be entitled to two representatives.

53. The county of Lake shall constitute the fifty-third representative district, and be entitled to one representative.

54. The county of Cook shall constitute the fifty-fourth representative district, and be entitled to two representatives.

SEC. 41. Until the general assembly shall otherwise provide, the clerks of the county commissioners' courts in each of the aforesaid senatorial districts, and in such of the representative districts as may be composed of more than one county, shall meet at the county-seat of the oldest county in said district, within thirty days next after any election for senator or representative therein, for the purpose of comparing and canvassing the votes given at such election; and the said clerks shall in all other respects conform to the laws on the subject in force at the time of the adoption of this constitution.

ARTICLE IV

OF THE EXECUTIVE DEPARTMENT

SECTION 1. The executive power of the State shall be vested in a governor.

SEC. 2. The first election of governor shall be held on Tuesday next after the first Monday in November, A. D. 1848; and the next election shall be held on Tuesday next after the first Monday of November, A. D. 1852; and thereafter an election for governor shall be held once in four years, on Tuesday next after the first Monday of November. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall, respectively, vote for members thereof. The returns for every election of governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. The first governor shall enter upon the duties of his office on the second Monday of January, A. D. 1849, and shall hold his office until the second Monday of January, A. D. 1853, and until his successor shall have been elected and qualified; and thereafter the governor shall hold his office for the term of four years, and until his successor shall have been elected and qualified; but he shall not be eligible to such office more than four years in any term of eight years, nor to any other office until after the expiration of the term for which he was elected.

SEC. 4. No person, except a citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not have attained the age of thirty-five years, and been ten years a resident of this State, and fourteen years a citizen of the United States.

SEC. 5. The governor shall reside at the seat of government, and receive a salary of fifteen hundred dollars per annum, which shall not be increased or diminished; and he shall not, during the time for which he shall have been elected, receive any emolument from the United States, or either of them.

SEC. 6. Before he enters upon the duties of his office, he shall take the following oath or affirmation, to wit: "I do solemnly swear [or affirm] that I will faithfully execute the duties appertaining to the office of governor of the State of Illinois; and will, to the best of my ability, preserve, protect, and defend the constitution of this State; and will also support the Constitution of the United States."

SEC. 7. He shall, from time to time, give the general assembly information of the seat of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 8. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the general assembly at its next meeting, when the general assembly shall pardon the convict, commute the sentence, direct the execution thereof, or grant a further reprieve. He shall, biennially, communicate to the general assembly each case of reprieve, commutation, or pardon granted, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of commutation, pardon, or reprieve.

SEC. 9. He may require information in writing from the officers in the executive departments, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 10. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state, in said proclamation, the purpose for which they are to convene; and the general assembly shall enter on no legislative business except that for which they were specially called together.

SEC. 11. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 12. The governor shall nominate, and by and with the advice and consent of the senate (a majority of all the senators concurring) appoint, all officers whose offices are established by this constitution, or which may be created by law, and whose appointments are not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to

adjourn the general assembly to such time as he thinks proper: *Provided*, It be not to a period beyond the next constitutional meeting of the same.

Sec. 14. A lieutenant-governor shall be chosen at every election of governor in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

Sec. 15. The lieutenant-governor shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and, whenever the senate are equally divided, to give the casting vote.

Sec. 16. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own number as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government.

Sec. 17. The lieutenant-governor, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more.

Sec. 18. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a speaker.

Sec. 19. In case of impeachment of the governor, his absence from the State, or inability to discharge the duties of his office, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor; and in case of his death, resignation, or removal, then upon the speaker of the senate for the time being, until the governor, absent or impeached, shall return or be acquitted; or until the disqualification or inability shall cease; or until a new governor shall be elected and qualified.

Sec. 20. In case of a vacancy in the office of governor, for any other cause than those herein enumerated, or in case of the death of the governor-elect before he is qualified, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor, or speaker of the senate, as above provided, until a new governor be elected and qualified.

Sec. 21. Every bill which shall have passed the senate and house of representatives shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which is shall have originated; and the said house shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, a majority of the members elected shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by a majority of the members elected, it shall become a law, notwithstanding the objections of

the governor; but in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return, in which case the said bill shall be returned on the first day of the meeting of the general assembly, after the expiration of said ten days, or be a law.

Sec. 22. There shall be elected by the qualified electors of this State, at the same time of the election for governor, a secretary of state, whose term of office shall be the same as that of the governor, who shall keep a fair register of the official acts of the governor, and, when required, shall lay the same, and all papers, minutes, and vouchers, relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law, and shall receive a salary of eight hundred dollars per annum, and no more, except fees: *Provided*, That if the office of secretary of state should be vacated by death, resignation, or otherwise, it shall be the duty of the governor to appoint another, who shall hold his office until another secretary shall be elected and qualified.

Sec. 23. There shall be chosen, by the qualified electors throughout the State, an auditor of public accounts, who shall hold his office for the term of four years, and until his successor is qualified, and whose duties shall be regulated by law, and who shall receive a salary, exclusive of clerk-hire, of one thousand dollars per annum for his services, and no more.

Sec. 24. There shall be elected, by the qualified electors throughout the State, a State treasurer, who shall hold his office for two years, and until his successor is qualified; whose duties may be regulated by law, and who shall receive a salary of eight hundred dollars per annum, and no more.

Sec. 25. All grants and commissions shall be sealed with the great seal of state, signed by the governor or person administering the government, and countersigned by the secretary of state.

Sec. 26. The governor and all other civil officers shall be liable to impeachment for misdemeanor in office, during their continuance in office, and for two years thereafter.

Article V

of the judiciary department

Section 1. The judicial power of this State shall be, and is hereby, vested in one supreme court, in circuit courts, in county courts, and in justices of the peace: *Provided*, That inferior local courts, of civil and criminal jurisdiction, may be established by the general assembly in the cities of this State, but such courts shall have a uniform organization and jurisdiction in such cities.

Sec. 2. The supreme court shall consist of three judges, two of whom shall form a quorum; and the concurrence of two of said judges shall in all cases be necessary to a decision.

Sec. 3. The State shall be divided into three grand divisions, as nearly equal as may be, and the qualified electors of each division

shall elect one of the said judges for the term of nine years: *Provided*, That after the first election of such judges, the general assembly may have the power to provide by law for their election by the whole State, or by divisions, as they may deem most expedient.

SEC. 4. The office of one of said judges shall be vacated, after the first election held under this article, in three years; of one, in six years; and of one, in nine years; to be decided by lot, so that one of said judges shall be elected once in every three years. The judge having the longest term to serve shall be the first chief-justice; after which, the judge having the oldest commission shall be chief-justice.

SEC. 5. The supreme court may have original jurisdiction in cases relative to the revenue, in cases of *mandamus*, *habeas corpus*, and in such cases of impeachment as may be by law directed to be tried before it, and shall have appellate jurisdiction in all other cases.

SEC. 6. The supreme court shall hold one term annually in each of the aforesaid grand divisions, at such time and place, in each of said divisions, as may be provided for by law.

SEC. 7. The State shall be divided into nine judicial districts, in each of which one circuit judge shall be elected by the qualified electors thereof, who shall hold his office for the term of six years, and until his successor shall be commissioned and qualified: *Provided*, That the general assembly may increase the number of circuits to meet the future exigencies of the State.

SEC. 8. There shall be two or more terms of the circuit court held annually in each county of this State, at such times as shall be provided by law; and said courts shall have jurisdiction in all cases at law and equity, and in all cases of appeals from all inferior courts.

SEC. 9. All vacancies in the supreme and circuit courts shall be filled by the election as aforesaid: *Provided*, *however*, That if the unexpired term does not exceed one year, such vacancy may be filled by executive appointment.

SEC. 10. The judges of the supreme court shall receive a salary of twelve hundred dollars per annum, payable quarterly, and no more. The judges of the circuit courts shall receive a salary of one thousand dollars per annum, payable quarterly, and no more. The judges of the supreme and circuit courts shall not be eligible to any other office or public trust, of profit, in this State or the United States, during the term for which they are elected, nor for one year thereafter. All votes for either of them for any elective office, (except that of judge of the supreme or circuit courts,) given by the general assembly, or the people, shall be void.

SEC. 11. No person shall be eligible to the office of judge of any court of this State who is not a citizen of the United States, and who shall not have resided in this State five years next preceding his election, and who shall not for two years next preceding his election have resided in the division, circuit, or county in which he shall be elected; nor shall any person be elected judge of the supreme court who shall be, at the time of his election, under the age of thirty-five years; and no person shall be eligible to the office of judge of the circuit court until he shall have attained the age of thirty years.

SEC. 12. For any reasonable cause, to be entered on the journals of each house, which shall not be a sufficient ground for impeachment, both justices of the supreme court and judges of the circuit court shall be removed from office, on the vote of two-thirds of the members

elected to each branch of the general assembly: *Provided always*, That no member of either house of the general assembly shall be eligible to fill the vacancy occasioned by such removal: *Provided also*, That no removal shall be made unless the justice or judge complained of shall have been served with a copy of the complaint against him, and shall have an opportunity of being heard in his defence.

SEC. 13. The first election for justices of the supreme court and judges of the circuit courts shall be held on the first Monday of September, 1848.

SEC. 14. The second election for one justice of the supreme court shall be held on the first Monday of June, 1852; and every three years thereafter an election shall be held for one justice of the supreme court.

SEC. 15. On the first Monday of June, 1855, and every sixth year thereafter, an election shall be held for judges of the circuit courts: *Provided*, Whenever an additional circuit is created, such provision may be made as to hold the second election of such additional judge at the regular elections herein provided.

SEC. 16. There shall be in each county a court to be called a county court.

SEC. 17. One county judge shall be elected by the qualified voters of each county, who shall hold his office for four years, and until his successor is elected and qualified.

SEC. 18. The jurisdiction of said court shall extend to all probate and such other jurisdiction as the general assembly may confer in civil cases, and such criminal cases as may be prescribed by law, where the punishment is by fine only, not exceeding one hundred dollars.

SEC. 19. The county judge, with such justices of the peace in each county as may be designated by law, shall hold terms for the transaction of county business, and shall perform such other duties as the general assembly shall prescribe: *Provided*, The general assembly may require that two justices, to be chosen by the qualified electors of each county, shall sit with the county judge in all cases; and there shall be elected, quadrennially, in each county, a clerk of the county court, who shall be *ex-officio* recorder, whose compensation shall be fees: *Provided*, The general assembly may, by law, make the clerk of the circuit court *ex-officio* recorder, in lieu of the county clerk.

SEC. 20. The general assembly shall provide for the compensation of the county judge.

SEC. 21. The clerks of the supreme and circuit courts, and State's attorneys, shall be elected at the first special election for judges. The second election for clerks of the supreme court shall be held on the first Monday of June, 1855, and every sixth year thereafter. The second election for clerks of the circuit courts and State's attorneys shall be held on Tuesday next after the first Monday of November, 1852, and every fourth year thereafter.

SEC. 22. All judges and State's attorneys shall be commissioned by the governor.

SEC. 23. The election of all officers, and the filling of all vacancies that may happen by death, resignation, or removal, not otherwise directed or provided for by this constitution, shall be made in such a manner as the general assembly shall direct: *Provided*, That no such officer shall be elected by the general assembly.

SEC. 24. The general assembly may authorize the judgments, decrees, and decisions of any local inferior court of record, of original, civil, or criminal jurisdiction, established in a city, to be removed, for revision, directly into the supreme court.

SEC. 25. County judges, clerks, sheriffs, and other county officers, for wilful neglect of duty, or misdemeanor in office, shall be liable to presentment or indictment by a grand jury, and trial by a petit jury, and, upon conviction, shall be removed from office.

SEC. 26. All process, writs, and other proceedings shall run in the name of "The people of the State of Illinois." All prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois," and conclude, "Against the peace and dignity of the same."

SEC. 27. There shall be elected in each county in this State, in such districts as the general assembly may direct, by the qualified electors thereof, a competent number of justices of the peace, who shall hold their offices for the term of four years, and until their successors shall have been elected and qualified, and who shall perform such duties, receive such compensation, and exercise such jurisdiction as may be prescribed by law.

SEC. 28. There shall be elected in each of the judicial circuits of this State, by the qualified electors thereof, one State's attorney, who shall hold his office for the term of four years, and until his successor shall be commissioned and qualified, who shall perform such duties and receive such compensation as may be prescribed by law: *Provided*, That the general assembly may hereafter provide by law for the election, by the qualified voters of each county in this State, of one county attorney for each county, in lieu of the State's attorneys provided for in this section; the term of office, duties, and compensation of which county attorneys shall be regulated by law.

SEC. 29. The qualified electors of each county in this State shall elect a clerk of the circuit court, who shall hold his office for the term of four years, and until his successor shall have been elected and qualified, who shall perform such duties and receive such compensation as may be prescribed by law. The clerks of the supreme court shall be elected, in each division, by the qualified electors thereof, for the term of six years, and until their successors shall have been elected and qualified, whose duties and compensation shall be provided by law.

SEC. 30. The first grand division for the election of judges of the supreme court shall consist of the counties of Alexander, Pulaski, Massac, Pope, Hardin, Gallatin, Saline, Williamson, Johnson, Union, Jackson, Randolph, Perry, Franklin, Hamilton, White, Wabash, Edwards, Wayne, Jefferson, Washington, Monroe, Saint Clair, Clinton, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Bond, Madison, Jersey, and Calhoun.

The second grand division shall consist of the counties of Edgar, Coles, Moultrie, Shelby, Montgomery, Macoupin, Greene, Pike, Adams, Highland, Hancock, McDonough, Schuyler, Brown, Fulton, Mason, Cass, Morgan, Scott, Sangamon, Christian, Macon, Piatt, Champaign, Vermillion, De Witt, Logan, Menard, Cumberland, and Clark.[a]

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[a] McLean County was added to the second division by the act of February 16, 1865.

The third grand division shall consist of the counties of Henderson, Warren, Knox, Peoria, Tazewell, Woodford, McLean, Livingston, Iroquois, Will, Grundy, Kendall, La Salle, Putnam, Marshall, Stark, Bureau, Henry, Mercer, Rock Island, Whitesides, Lee, Carroll, Jo Daviess, Stephenson, Winnebago, Ogle, De Kalb, Boone, Kane, McHenry, Lake, Cook, and Du Page.

SEC. 31. The terms of the supreme court for the first division shall be held at Mount Vernon, in Jefferson County; for the second division, at Springfield, in Sangamon County; for the third division, at Ottawa, in La Salle County; until some other place in either division is fixed by law.

SEC. 32. Appeals and writs of error may be taken from the circuit court of any county to the supreme court held in the division which includes such county, or, with the consent of all the parties in the cause, to the supreme court in the next adjoining division.

SEC. 33. The foregoing districts may, after the taking of each census by the State, be altered, if necessary, to equalize the said districts in population; but such alteration shall be made by adding to such district such adjacent county or counties as will make said district nearest equal in population: *Provided*, No such alteration shall affect the office of any judge then in office.

ARTICLE VI

ON ELECTIONS AND THE RIGHT OF SUFFRAGE

SECTION 1. In all elections every white male citizen above the age of twenty-one years, having resided in the State one year next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid who may be a resident of the State at the time of the adoption of this constitution shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the district or county in which he shall actually reside at the time of such election.

SEC. 2. All votes shall be given by ballot.

SEC. 3. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States or of this State.

SEC. 6. No soldier, seaman, or marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next before the election or appointment.

SEC. 8. The general assembly shall have full power to pass laws excluding from the right of suffrage persons convicted of infamous crimes.

SEC. 9. The general elections shall be held on the Tuesday next after the first Monday of November, biennially, until otherwise provided by law.

ARTICLE VII

OF COUNTIES

SECTION 1. No new county shall be formed or established by the general assembly, which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county-seat of the county or counties proposed to be divided.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 3. All territory which has been or may be stricken off, by legislative enactment, from any organized county or counties, for the purpose of forming a new county, and which shall remain unorganized after the period provided for such organization, shall be and remain a part of the county or counties from which it was originally taken, for all purposes of county and State government, until otherwise provided by law.

SEC. 4. There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of a majority of the voters of the county to which it is proposed to be added.

SEC. 5. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county shall have voted in favor of its removal to such point.

SEC. 6. The general assembly shall provide, by a general law, for a township organization, under which any county may organize whenever a majority of the voters of such county, at any general election, shall so determine; and whenever any county shall adopt a township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the county court may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide.

SEC. 7. There shall be elected in each county in this State, by the qualified electors thereof, a sheriff, who shall hold his office for the term of two years, and until his successor shall have been elected and qualified: *Provided*, No person shall be eligible to the said office more than once in four years.

ARTICLE VIII

MILITIA

SECTION 1. The militia of the State of Illinois shall consist of all free male able-bodied persons (negroes, mulattoes, and Indians excepted) resident of the State, between the ages of eighteen and

forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State, and shall be armed, equipped, and trained as the general assembly may provide by law.

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace, provided such person or persons shall pay an equivalent for such exemption.

Sec. 3. Company, battalion, and regimental officers, staff-officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

Sec. 4. Brigadier and major generals shall be elected by the officers of their brigades and divisions, respectively.

Sec. 5. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the legislature may provide.

Sec. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and election of officers, and in going to and returning from the same.

Article IX

of the revenue

Section 1. The general assembly may, whenever they shall deem it necessary, cause to be collected from all able-bodied free white male inhabitants of this State, over the age of twenty-one years and under the age of sixty years, who are entitled to the right of suffrage, a capitation-tax of not less than fifty cents nor more than one dollar each.

Sec. 2. The general assembly shall provide for levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his or her property; such value to be ascertained by some person or persons to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax pedlers, auctioneers, brokers, hawkers, merchants, commission-merchants, show-men, jugglers, innkeepers, grocery-keepers, toll bridges and ferries, and persons using and exercising franchises and privileges in such manner as they shall from time to time direct.

Sec. 3. The property of the State and counties, both real and personal, and such other property as the general assembly may deem necessary for school, religious, and charitable purposes, may be exempted from taxation.

Sec. 4. Hereafter no purchaser of any land or town-lot, at any sale of lands or town-lots, for taxes due either to this State, or any county, or incorporated town or city within the same; or at any sale for taxes or levies authorized by the laws of this State, shall be entitled to a deed for the lands or town-lots so purchased until he or she shall have complied with the following conditions, to wit: Such purchaser shall serve, or cause to be served, a written notice of such purchase on every person in possession of such land or town-lot, three months before the expiration of the time of redemption on such sale; in which notice he shall state when he purchased the land or town-lot, the description of the land or lot he has purchased, and

when the time of redemption will expire. In like manner he shall serve on the person or persons in whose name or names such land or lot is taxed a similar written notice, if such person or persons shall reside in the county where such land or lot shall be situated; and in the event that the person or persons in whose name or names the land or lot is taxed do not reside in the county, such purchaser shall publish such notice in some newspaper printed in such county; and if no newspaper is printed in the county, then in the nearest newspaper that is published in this State to the county in which such lot or land is situated; which notice shall be inserted three times, the last time not less than three months before the time of redemption shall expire. Every such purchaser, by himself or agent, shall, before he shall be entitled to a deed, make an affidavit of having complied with the conditions of this section, stating particularly the facts relied on as such compliance; which affidavit shall be delivered to the person authorized by law to execute such tax-deed, and which shall by him be filed with the officer having custody of the records of lands and lots sold for taxes, and entries of redemption in the county where such land or lot shall lie, to be by such officer entered on the records of his office and carefully preserved among the files of his office; and which record or affidavit shall be *prima-facie* evidence that such notice has been given. Any person swearing falsely in such affidavit shall be deemed guilty of perjury, and punished accordingly. In case any person shall be compelled under this section to publish a notice in a newspaper, then, before any person who may have a right to redeem such land or lot from tax-sale shall be permitted to redeem, he or she shall pay the officer or person who by law is authorized to receive such redemption-money, the printer's fee for publishing such notice, and the expenses of swearing or affirming to the affidavit, and filing the same.

Sec. 5. The corporate authorities of counties, townships, school districts, cities, towns, and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. And the general assembly shall require that all the property within the limits of municipal corporations belonging to individuals shall be taxed for the payment of debts contracted under authority of law.

Sec. 6. The specifications of the objects and subjects of taxation shall not deprive the general assembly of the power to require other objects or subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

Article X

CORPORATIONS

Section 1. Corporations, not possessing banking powers or privileges, may be formed under general laws, but shall not be created by special acts, except for municipal purposes, and in cases where, in the judgment of the general assembly, the objects of the corporation cannot be attained under general laws.

Sec. 2. Dues from corporations, not possessing banking powers or privileges, shall be secured by such individual liabilities of the corporators, or other means, as may be prescribed by law.

Sec. 3. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint-stock association for banking purposes, to be hereafter created.

Sec. 4. The stockholders in every corporation, or joint-stock association for banking purposes, issuing bank-notes, or any kind of paper credits to circulate as money, shall be individually responsible, to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

Sec. 5. No act of the general assembly, authorizing corporations or associations with banking powers, shall go into effect, or in any manner be in force, unless the same shall be submitted to the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for and against such law.

Sec. 6. The general assembly shall encourage internal improvements, by passing liberal laws of incorporation for that purpose.

Article XI

COMMONS

All lands which have been granted, as a "common," to the inhabitants of any town, hamlet, village, or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village, or corporation; but the said commons, or any of them, or any part thereof, may be divided, leased, or granted, in such manner as may hereafter be provided by law, on petition of a majority of the qualified voters interested in such common, or any of them.

Article XII

AMENDMENTS TO THE CONSTITUTION

Section 1. Whenever two-thirds of all the members elected to each branch of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors at the next election of members of the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the electors of the State voting for representatives have voted for a convention, the general assembly shall, at their next session, call a convention to consist of as many members as the house of representatives at the time of making said call, to be chosen in the same manner, at the same place, and by the same electors, in the same districts that chose the members of the house of representatives; and which convention shall meet within three months after the said election, for the purpose of revising, altering, or amending this constitution.

Sec. 2. Any amendment or amendments to this constitution may be proposed in either branch of the general assembly; and if the same shall be agreed to by two-thirds of all the members-elect in each of the two houses, such proposed amendment or amendments shall be referred to the next regular session of the general assembly, and shall

be published at least three months previous to the time of holding the next election for members of the house of representatives; and if, at the next regular session of the general assembly after said election, a majority of all the members-elect in each branch of the general assembly shall agree to said amendment or amendments, then it shall be their duty to submit the same to the people at the next general election for their adoption or rejection, in such manner as may be prescribed by law; and if a majority of all the electors voting at such election for members of the house of representatives shall vote for such amendment or amendments, the same shall become a part of the constitution. But the general assembly shall not have power to propose an amendment or amendments to more than one article of the constitution at the same session.

Article XIII

Declaration of Rights

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare:

Section 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

Sec. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishment or modes of worship.

Sec. 4. That no religious test shall ever be required as a qualification to any office of public trust under this State.

Sec. 5. That all elections shall be free and equal.

Sec. 6. That the right of trial by jury shall remain inviolate; and shall extend to all cases at law, without regard to the amount in controversy.

Sec. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 8. That no freeman shall be imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

Sec. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the county or district wherein the offence shall be committed, which county or district shall have been previously ascertained by law; and that he shall not be compelled to give evidence against himself.

Sec. 10. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger: *Provided*, That justices of the peace shall try no person, except as a court of inquiry, for any offence punishable with imprisonment or death, or fine above one hundred dollars.

Sec. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives in the general assembly, nor without just compensation being made to him.

Sec. 12. Every person within this State ought to find a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

Sec. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. 14. All penalties shall be proportioned to the nature of the offence; the true design of all punishment being to reform, not to exterminate, mankind.

Sec. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

Sec. 16. There shall be neither slavery nor involuntary servitude in this State, except as a punishment for crime whereof the party shall have been duly convicted.

Sec. 17. No *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 18. That no person shall be liable to be transported out of this State for any offence committed within the same.

Sec. 19. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 20. The military shall be in strict subordination to the civil power.

SEC. 21. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

SEC. 22. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in manner prescribed by law.

SEC. 23. The printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 24. In prosecutions for the publication of papers investigating the official conduct of officers, or of men acting in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have the right of determining both the law and the fact, under the direction of the court, as in other cases.

SEC. 25. Any person who shall, after the adoption of this constitution, fight a duel, or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State, and shall be punished otherwise in such manner as is or may be prescribed by law.

SEC. 26. That from and after the adoption of this constitution every person who shall be elected or appointed to any office of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, shall, before he enters upon the duties of his office, in addition to the oath prescribed in this constitution, take the following oath: "I do solemnly swear [or affirm, as the case may be] that I have not fought a duel, nor sent or accepted a challenge to fight a duel, the probable issue of which might have been the death of either party, nor been a second to either party, nor in any manner aided or assisted in such duel, nor been knowingly the bearer of such challenge or acceptance, since the adoption of the constitution; and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel, during my continuance in office; so help me God."

ARTICLE XIV

PERSONS OF COLOR

The general assembly shall, at its first session under the amended constitution, pass such laws as will effectually prohibit free persons of color from immigrating to and settling in this State; and to effectually prevent the owners of slaves from bringing them into this State, for the purpose of setting them free.

SCHEDULE

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals or bodies-corporate, shall continue, and be as valid as if this co stitution had not been adopted.

SEC. 2. That all fines, penalties, and forfeitures due and owing to the State of Illinois under the present constitution and laws shall inure to the use of the people of the State of Illinois under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed, before the adoption of this constitution, to the people of the State of Illinois, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of the State.

SEC. 4. That "Article XI," entitled " Commons," is hereby adopted as a part of the constitution of this State, without being submitted to be voted upon by the people.

SEC. 5. That at the first election fixed by this constitution for the election of judges, there shall be elected one circuit judge in each of the nine judicial circuits now established in this State.

SEC. 6. The county commissioners' courts and the probate justices of the several counties shall continue in existence and exercise their present jurisdiction until the county court, provided in this constitution, is organized in pursuance of an act of the general assembly to be passed at its first session.

SEC. 7. That the clerk of the circuit court, in each county fixed by this constitution as the place for holding the supreme court, except in the county of Sangamon, shall be *ex-officio* clerk of the supreme court, until the clerks of said court shall be elected and qualified, as provided in this constitution, and all laws now in force, in relation to the clerk of the supreme court, shall be applicable to said clerks and their duties.

SEC. 8. That the sheriffs, State attorneys, and all other officers elected under this constitution, shall perfom such duties as shall be prescribed by law.

SEC. 9. That the oaths of office herein required to be taken may be administered by a justice of the peace until otherwise provided by law.

SEC. 10. That this constitution shall be submitted to the people for their adoption or rejection at an election to be held on the first Monday in March, A. D. 1848, and there shall also be submitted for adoption or rejection, at the same time, the separate articles in relation to the emigration of colored persons and the public debt.

SEC. 11. That every person entitled to vote for members of the general assembly, by the constitution and laws now in force, shall on the first Monday in March, A. D. 1848, be entitled to vote for the adoption or rejection of this constitution, and for and against the aforesaid articles separately submitted, and the said qualified electors shall

vote in the counties in which they respectively reside, at the usual places of voting, and not elsewhere; and the said election shall be conducted according to the laws now in force in relation to the election of governor, so far as applicable, except as herein otherwise provided.

SEC. 12. [As this section merely gave the form of poll-book to be used when the constitution was submitted to the people, it is omitted, the event having passed.]

SEC. 13. That the returns of the votes for the adoption or rejection of this constitution, and for and against the separate articles submitted, shall be made to the secretary of state within fifty days after the election, and the returns of the votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer, and secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor forthwith of the result of the polls. If it shall appear that a majority of all the votes polled are for the adoption of this constitution, it shall be the supreme law of the land, from and after the first day of April, A. D. 1848; but if it shall appear that a majority of the votes polled were given against the constitution, the same shall be null and void. If it shall further appear that a majority of the votes polled shall have been given for the separate article in relation to colored persons, or the article for the two-mill tax, then said article or articles shall be and form a part of this constitution, otherwise said article or articles shall be null and void.

SEC. 14. That if this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties in this State, or, in case of vacancy, to the coroners, for the election of all the officers, the time of whose election is fixed by this constitution or schedule; and it shall be the duty of said sheriffs or coroners to give at least twenty days' notice of the time and place of said election, in the manner now provided by law.

SEC. 15. The general assembly shall, at its first session after the adoption of this constitution, provide by law for the mode of voting by ballot, and also for the manner of returning, canvassing, and certifying the number of votes cast at any election; and until said law shall be passed, all elections shall be *viva voce*, and the laws now in force regulating elections shall continue in force until the general assembly shall provide otherwise, as herein directed.

SEC. 16. That the first general election of governor, secretary of state, auditor, treasurer, and members of the general assembly, and of such other officers as are to be elected at the same time, shall be held on the first Monday of August, eighteen hundred and forty-eight, anything in this constitution to the contrary notwithstanding. County officers then elected shall hold their respective offices until their successors are elected or appointed, in conformity with laws hereinafter enacted.

SEC. 17. That returns of the election of justices of the supreme and judges of the circuit courts, secretary of state, auditor, and treasurer, shall be made and canvassed as is now provided by law for Representatives in Congress; and returns for members of the general assembly and county officers shall be made and canvassed as is now provided by law.

Sec. 18. That all laws of the State of Illinois, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

Sec. 19. On the first Monday in December, one thousand eight hundred and forty-eight, the term of office of judges of the supreme court, State's attorneys, and of the clerks of the supreme and circuit courts, shall expire; and on said day the term of office of the judges, State's attorneys, and clerks elected under the provisions of this constitution shall commence. The judges of the supreme court, elected as aforesaid, shall have and exercise the powers and jurisdiction conferred upon the present judges of that court; and the said judges of the circuit courts shall have and exercise the powers and jurisdiction conferred upon the judges of those courts, subject to the provisions of this constitution.

Sec. 20. On the first Monday in December, one thousand eight hundred and forty-eight, jurisdiction of all suits and proceedings then pending in the present supreme court shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings then pending in the circuit courts of the several counties shall be vested in the circuit courts of said counties.

Sec. 21. The Cook and Jo Daviess County courts shall continue to exist, and the judge and other officers of the same remain in office, until otherwise provided by law.

Sec. 22. Until otherwise provided by law, the terms of the supreme court shall be held as follows: In the first division, on the first Monday of December, A. D. 1848, and annually thereafter; in the second division, on the third Monday of December, A. D. 1848, and annually thereafter; in the third division, on the first Monday of February, A. D. 1849, and annually thereafter. The sheriffs of Jefferson and La Salle Counties shall perform the same duties and receive the same compensation as is required and provided for the sheriff of Sangamon County, until otherwise provided by law.

Sec. 23. Nothing in this constitution shall prevent the general assembly from passing such laws in relation to the apprenticeship of minors, during their minority, as may be necessary and proper.

Sec. 24. That the general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

Sec. 25. Elections of judges of the supreme and circuit courts shall be subject to be contested.

Sec. 26. Contested elections of judges of the supreme court shall be tried by the senate, and of judges of the circuit court by the supreme court, and the general assembly shall prescribe the manner of proceeding therein.

Done in convention, at the capitol, in the city of Springfield, on the thirty-first day of August, in the year of our Lord one thousand eight hundred and forty-seven, and of the Independence of the United States of America the seventy-second.

Newton Cloud, *President.*

Henry W. Moore,
Secretary.
Harman G. Reynolds,
Assistant Secretary.

CONSTITUTION OF ILLINOIS—1870 * [a]

PREAMBLE

We, the People of the State of Illinois—grateful to Almighty God for the civil, political and religious liberty which he hath so long permitted us to enjoy, and looking to him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations—in order to form a more perfect government, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessing of liberty to ourselves and our posterity, do ordain and establish this Constitution for the State of Illinois.

ARTICLE I

BOUNDARIES

The boundaries and jurisdiction of the State shall be as follows, to-wit: Beginning at the mouth of the Wabash river; thence up the same, and with the line of Indiana to the north west corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north along the middle of said lake to north latitude forty-two degrees and thirty minutes, thence west to the middle of the Mississippi river, and thence down along the middle of that river to its confluence with the Ohio river, and thence up the latter river along its northwestern shore to the place of beginning: *Provided*, that this State shall exercise such jurisdiction upon the Ohio river as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.[b]

ARTICLE II

BILL OF RIGHTS

SECTION 1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty

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* The constitution of the State of Illinois. Adopted in Convention May 13, 1870; ratified by the People July 2, 1870; in force August 8, 1870. Amended in 1878, 1880, 1884, 1886 and 1890. With annotations by Prof. C. W. Tooke, of the University of Illinois. Printed by order of James A. Rose, Secretary of State. Springfield, Ill.: Phillips Bros., State Printers. 1900. 58 pp.

[a] Adopted in Convention at Springfield, May 13, A. D. 1870. Ratified by the People July 2, 1870; in force August 8, 1870; amended in 1878, 1880, 1884, 1886 and 1890.

See "Debates and Proceedings of the Constitutional Convention of the State of Illinois, Convened at the City of Springfield, Tuesday, December 13, 1869. Ely, Burnham & Bartlett, Official Stenographers. Vols. I, II, folio. Springfield, E. L. Merritt & Brother, Printers to the Convention, 1870." Vol. II. pp. 1871–1880.

Also, "Journal of the Constitutional Convention of the State of Illinois, Convened at Springfield, December 13, 1869. Springfield: State Journal Printing Office, 1870." pp. 993–1021.

[b] The true line of boundary between Illinois and Iowa is the middle of the main navigable channel. Illinois *v.* Iowa, 147 U. S. 1.

Illinois cases cited and affirmed in Keokuk Bridge Co. *v.* The People, 176 Ill. 267.

and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty or property without due process of law.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

§ 4. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

§ 5. The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace, by a jury of less than twelve men, may be authorized by law.

§ 6. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized.

§ 7. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

§ 8. No person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia, when in actual service in time of war or public danger: *Provided*, that the grand jury may be abolished by law in all cases.

§ 9. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

§ 10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

§ 11. All penalties shall be proportioned to the nature of the offense; and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the State for any offense committed within the same.

§ 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

§ 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the State, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

§ 14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

§ 15. The military shall be in strict subordination to the civil power.

§ 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

§ 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

§ 18. All elections shall be free and equal.

§ 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property, or reputation; he ought to obtain by law, right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay.

§ 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

Article III

DISTRIBUTION OF POWERS

The powers of the government of this State are divided into three distinct departments—the Legislative, Executive and Judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

Article IV

LEGISLATIVE DEPARTMENT

§ 1. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

ELECTION

§ 2. An election for members of the general assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, and every two years thereafter, in each county, at such places therein as may

be provided by law. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

ELIGIBILITY AND OATH

§ 3. No person shall be a senator who shall not have attained the age of twenty-five years, or a representative who shall not have attained the age of twenty-one years. No person shall be a senator or a representative who shall not be a citizen of the United States and who shall not have been for five years a resident of this State, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff, or collector of public revenue, members of either house of congress, or persons holding any lucrative office under the United States or this State, or any foreign government, shall have a seat in the general assembly: *Provided*, that appointments in the militia, and the offices of notary public and justice of the peace, shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the government of the United States, (except postmasters whose annual compensation does not exceed the sum of three hundred dollars) hold any office of honor or profit under the authority of this State.

§ 4. No person who has been, or hereafter shall be convicted of bribery, perjury or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the general assembly, or to any office of profit or trust in this State.

§ 5. Members of the general assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of Illinois, and will faithfully discharge the duties of senator (or representative) according to the best of my ability; and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act."

This oath shall be administered by a judge of the supreme or circuit court in the hall of the house to which the member is elected, and the secretary of state shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of violating, his said oath, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

APPORTIONMENT—SENATORIAL

§ 6. The general assembly shall apportion the State every ten years, beginning with the year one thousand eight hundred and seventy-one, by dividing the population of the State, as ascertained by the federal census, by the number fifty-one, and the quotient shall be the ratio of representation in the senate. The State shall be divided into fifty-one senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord one thousand eight hundred and seventy-two, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers at the end of four years, and vacancies occurring by the expiration of term shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as near as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three-fourths may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

REPRESENTATIVES

§ 7. The population of the State, as ascertained by the federal census, shall be divided by the number one hundred and fifty-three, and the quotient shall be the ratio of representation in the house of representatives. Every county or district shall be entitled to one representative, when its population is three-fifths of the ratio; if any county has less than three-fifths of the ratio, it shall be attached to the adjoining county having the least population, to which no other county has, for the same reason, been attached, and the two shall constitute a separate district. Every county or district having a population not less than the ratio and three-fifths, shall be entitled to two representatives, and for each additional number of inhabitants, equal to the ratio, one representative. Counties having over two hundred thousand inhabitants, may be divided into districts, each entitled to not less than three nor more than five representatives. After the year one thousand eight hundred and eighty, the whole population shall be divided by the number one hundred and fifty-nine, and the quotient shall be the ratio of representation in the house of representatives for the ensuing ten years, and six additional representatives shall be added for every five hundred thousand increase of population at each decennial census thereafter, and be apportioned in the same manner as above provided.

§ 8. When a county or district shall have a fraction of population above what shall entitle it to one representative, or more, according to the provisions of the foregoing section, amounting to one-fifth of the ratio, it shall be entitled to one additional representative in the fifth term of each decennial period; when such fraction is two-fifths of the ratio, it shall be entitled to an additional representative in the fourth and fifth terms of said period; when the fraction is three

fifths of the ratio, it shall be entitled to an additional representative in the first, second and third terms, respectively; when a fraction is four-fifths of the ratio, it shall be entitled to an additional representative in the first, second, third and fourth terms, respectively.

NOTE.—By the adoption of minority representation, §§ 7 and 8 of this article, above set forth, cease to be a part of the constitution. Under § 12 of the schedule, and the vote of adoption, the following section relating to minority representation is substituted for said sections:

MINORITY REPRESENTATION [a]

§§ 7 and 8. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year of our Lord one thousand eight hundred and seventy-two, and every two years thereafter. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit: and the candidates highest in votes shall be declared elected.

TIME OF MEETING AND GENERAL RULES

§ 9. The sessions of the general assembly shall commence at twelve o'clock noon, on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant governor shall not attend as president, or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house, except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish by imprisonment any person not a member who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

§ 10. The door of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than

[a] The provision for minority representation in the election of members of the house of representatives was introduced in the convention of 1870 and championed by the late Joseph Medill of Chicago. Mr. Medill's real purpose in advocating this measure, as set forth in a letter to the writer shortly before his death, was to destroy the sectional feeling that then prevailed in the State, a purpose that this method has well attained.

that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the senate, at the request of two members, and in the house, at the request of five members, the yeas and nays shall be taken on any question, and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

STYLE OF LAWS AND PASSAGE OF BILLS

§ 11. The style of the laws of this State shall be: "*Be it enacted by the People of the State of Illinois, represented in the General Assembly.*"

§ 12. Bills may originate in either house, but may be altered, amended or rejected by the other; and, on the final passage of all bills, the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

§ 13. Every bill shall be read at large on three different days, in each house; and the bill and all amendments thereto shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speakers thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the general assembly shall take effect until the first day of July next after its passage, unless, in case of emergency (which emergency shall be expressed in the preamble or body of the act), the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

PRIVILEGES AND DISABILITIES

§ 14. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

§ 15. No person elected to the general assembly shall receive any civil appointment within this State from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the general assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

§ 16. The general assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the officers of the government shall contain no provision on any other subject.

§ 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the general assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

§ 18. Each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the State treasury, from funds belonging to the State, shall end with such fiscal quarter: *Provided*, the State may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate two hundred and fifty thousand dollars; and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged), shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people and have received a majority of the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrepealable until such debt be paid; *And, provided further*, that the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

§ 19. The general assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements of contracts shall be null and void: *Provided*, the general assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

§ 20. The State shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give, loan or extend its credit to, or in aid of, any public or other corporation, association or individual.

PAY OF MEMBERS

§ 21. The members of the general assembly shall receive for their services the sum of five dollars per day, during the first session held under this constitution, and ten cents for each mile necessarily traveled in going to and returning from the seat of government, to be computed by the auditor of public accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except the sum of fifty dollars per session to each member, which shall be in full for postage, stationery, newspapers and all other incidental expenses and perquisites; but no change shall be made in the compensation of the general assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses, and entered on the journals, and published at the close of each session.

SPECIAL LEGISLATION PROHIBITED

§ 22. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for—

Granting divorces;

Changing the names of persons or places;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys, and public grounds;

Locating or changing county seats;

Regulating county and township affairs;

Regulating the practice in courts of justice;

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables;

Providing for changes of venue in civil and criminal cases;

Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;

Summoning and impaneling grand or petit juries;

Providing for the management of common schools;

Regulating the rate of interest on money;

The opening and conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability;

The protection of game or fish;

Chartering or licensing ferries or toll bridges;

Remitting fines, penalties or forfeitures;

Creating, increasing, or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed;

Changing the law of descent;

Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such purposes.

Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever:

In all other cases where a general law can be made applicable, no special law shall be enacted.

§ 23. The general assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

IMPEACHMENT

§ 24. The house of representatives shall have the sole power of impeachment; but a majority of all the members elected must concur therein. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor of the State is tried, the chief justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

MISCELLANEOUS

§ 25. The general assembly shall provide, by law, that the fuel, stationery and printing paper furnished for the use of the State; the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let by contract to the lowest responsible bidder; but the general assembly shall fix a maximum price; and no member thereof, or other officer of the State, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the governor, and if he disapproves the same, there shall be a re-letting of the contract, in such manner as shall be prescribed by law.

§ 26. The State of Illinois shall never be made defendant in any court of law or equity.

§ 27. The general assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

§ 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

§ 29. It shall be the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishment as may be deemed proper.

§ 30. The general assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

§ 31.[a] The general assembly may pass laws permitting the owners of land to construct drains, ditches and levees for agricultural, sanitary or mining purposes, across the lands of others, and provide for the organization of drainage districts, and vest the corporate authorities thereof with power to construct and maintain levees, drains and ditches, and to keep in repair all drains, ditches and levees heretofore constructed under the laws of this State, by special assessments upon the property benefited thereby.

§ 32. The general assembly shall pass liberal homestead and exemption laws.

§ 33. The general assembly shall not appropriate out of the State treasury, or expend on account of the new capitol grounds, and construction, completion and furnishing of the State house, a sum exceeding in the aggregate three and a half millions of dollars, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the State at a general election; nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

Article V

EXECUTIVE DEPARTMENT

§ 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction and attorney general, who shall each, with the exception of the treasurer, hold his office for the term of four years from the second Monday of January next after his election and until his successor is elected and qualified. They shall, except the lieutenant governor, reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

§ 2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

ELECTION

§ 3. An election for governor, lieutenant governor, secretary of state, auditor of public accounts and attorney general shall be held on the Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter; for superintendent of public instruction,

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[a] As modified by the first amendment to the Constitution of 1870. The joint resolution was adopted by the Senate March 15, 1877, and the House March 20, 1877. It was adopted by the vote of the People November 5, 1878, and proclaimed ratified November 29, 1878.

This section as originally adopted in the Constitution of 1870 read as follows: "Sec. 31. The general assembly may pass laws permitting the owners or occupants of land to construct drains and ditches for agricultural and sanitary purposes across the land of others."

on the Tuesday next after the first Monday of November in the year one thousand eight hundred and seventy, and every four years thereafter; and for treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

§ 4. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the secretary of state directed to the "Speaker of the house of representatives," who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the general assembly, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest number of votes, the general assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the general assembly, by joint ballot, in such manner as may be prescribed by law.

ELIGIBILITY

§ 5. No person shall be eligible to the office of governor or lieutenant governor who shall not have attained the age of thirty years, and been, for five years next preceding his election, a citizen of the United States and of this State. Neither the governor, lieutenant governor, auditor of public accounts, secretary of state, superintendent of public instruction, nor attorney general shall be eligible to any other office during the period for which he shall have been elected.

GOVERNOR

§ 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

§ 7. The governor shall, at the commencement of each session, and at the close of his term of office, give to the general assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the general assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

§ 8. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which they are convened, and the general assembly shall enter upon no business except that for which they were called together.

§ 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the general assembly to such time as he thinks proper, not beyond the first day of the next regular session.

§ 10. The governor shall nominate, and by and with the advice and consent of the senate (a majority of all the senators elected con-

curring by yeas and nays), appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

§ 11. In case of a vacancy, during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated who is confirmed by the senate (a majority of all the senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the general assembly.

§ 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty or malfeasance in office; and he may declare his office vacant and fill the same as is herein provided in other cases of vacancy.

§ 13. The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor.

§ 14. The governor shall be commander-in-chief of the military and naval forces of the State (except when they shall be called into the service of the United States), and may call out the same to execute the laws, suppress insurrection and repel invasion.

§ 15. The governor and all civil officers of the State shall be liable to impeachment for any misdemeanor in office.

VETO [a]

§ 16. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor; but in all such cases the vote of each house shall be determined by yeas and nays, to be entered *upon* the journal. * Bills making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts

[a] As modified by the third amendment to the constitution of 1870. The amendment was proposed by the joint resolution of the Thirty-third General Assembly (L. 1883, p. 186), ratified by the vote of the people November 4, 1884, and proclaimed adopted November 28, 1884.

The amendment is practically the original section with the addition of the paragraphs between the asterisks (*——*) and the substitution of the italicized word *upon* for the original word "on."

in distinct items and sections. And if the governor shall not approve any one or more of the items or sections contained in any bill, but shall approve the residue thereof, it shall become a law, as to the residue, in like manner as if he had signed it. The governor shall then return the bill, with his objections to the items or sections of the same not approved by him, to the house in which the bill shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider so much of said bill as is not approved by the governor. The same proceedings shall be had in both houses in reconsidering the same as is hereinbefore provided in case of an entire bill returned by the governor with his objections; and if any item or section of said bill not approved by the governor shall be passed by two-thirds of the members elected to each of the two houses of the general assembly, it shall become part of said law, notwithstanding the objections of the governor.* Any bill which shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the general assembly shall by their adjournment prevent its return, in which case it shall be filed with his objections in the office of the secretary of state, within ten days after such adjournment, or become a law.

LIEUTENANT GOVERNOR

§ 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant governor.

§ 18. The lieutenant governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president, *pro tempore*, to preside in case of the absence or impeachment of the lieutenant governor, or when he shall hold the office of governor.

§ 19. If there be no lieutenant governor, or if the lieutenant governor shall, for any of the causes specified in section seventeen of this article, become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

OTHER STATE OFFICERS

§ 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers of the executive department, and of all

the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

§ 21. The officers of the executive department, and of all the public institutions of the State, shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports to the general assembly, together with the reports of the judges of the supreme court of defects in the constitution and laws; and the governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices.

THE SEAL OF STATE

§ 22. There shall be a seal of the State, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

FEES AND SALARIES

§ 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminish during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the constitution, shall be paid in advance into the State treasury.

DEFINITION AND OATH OF OFFICE

§ 24. An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

§ 25. All civil officers, except members of the general assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability."

And no other oath, declaration or test shall be required as a qualification.

Article VI

JUDICIAL DEPARTMENT

§ 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one supreme court, circuit courts, county courts, justices of the peace, police magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

SUPREME COURT

§ 2. The supreme court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus* and *habeas corpus*, and appellate jurisdiction in all other cases. One of said judges shall be chief justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

§ 3. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the district in which he shall be elected.

§ 4. Terms of the supreme court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the northern division, in the City of Chicago each year, at such times as said court may appoint, whenever said city or the County of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the State. The judicial divisions may be altered, increased or diminished in number, and the times and places of holding said court may be changed by law.

§ 5. The present grand divisions shall be preserved, and be denominated Southern, Central and Northern, until otherwise provided by law. The State shall be divided into seven districts for the election of judges, and, until otherwise provided by law, they shall be as follows:

First District.—The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski and Massac.

Second District.—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun and Christian.

Third District.—The counties of Sangamon, Macon, Logan, De Witt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie and Tazewell.

Fourth District.—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass and Scott.

Fifth District.—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, La Salle, Grundy and Woodford.

Sixth District.—The counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, De Kalb, Lee, Ogle, and Rock Island.

Seventh District.—The counties of Lake, Cook, Will, Kankakee and DuPage.

The boundaries of the districts may be changed at the session of the general assembly next preceding the election for judges therein, and at no other time; but whenever such alterations shall be made the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

§ 6. At the time of voting on the adoption of this constitution, one judge of the supreme court shall be elected by the electors thereof, in each of said districts numbered two, three, six and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year of our Lord one thousand eight hundred and seventy. The term of office of judges of the supreme court, elected after the adoption of this constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the judges in office at the adoption of this constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges in the respective districts wherein the term of such judges shall expire. The chief justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number chief justice.

§ 7. From and after the adoption of this constitution, the judges of the supreme court shall each receive a salary of four thousand dollars per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the terms for which said judges shall have been elected.

§ 8. Appeals and writs of error may be taken to the supreme court held in the grand division in which the case is decided, or, by consent of the parties, to any other grand division.

§ 9. The supreme court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

§ 10. At the time of the election of representatives in the general assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected, whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter one clerk of said court for each division shall be elected.

APPELLATE COURTS

§ 11. After the year of our Lord one thousand eight hundred and seventy-four, inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which such appeals and writs of error as the general assembly may

provide, may be prosecuted from circuit and other courts, and from which appeals and writs of error shall lie to the supreme court, in all criminal cases, and cases in which a franchise, or freehold, or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner as may be provided by law; but no judge shall sit in review upon cases decided by him; nor shall said judges receive any additional compensation for such services.

CIRCUIT COURTS

§ 12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

§ 13. The State, exclusive of the County of Cook and other counties having a population of one hundred thousand, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory and population, and shall not exceed in number one circuit for every one hundred thousand of population of the State. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the general assembly, at its session next preceding the election for circuit judges, but at no other time: *Provided* that the circuits may be equalized or changed at the first session of the general assembly after the adoption of this constitution. The creation, alteration or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one, or of two or more contiguous counties, containing a population exceeding fifty thousand, shall occupy nine months of the year, the general assembly may make of such county, or counties, a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

§ 14. The general assembly shall provide for the times of holding court in each county; which shall not be changed, except by the general assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit courts shall be held on the first Monday in June, in the year of our Lord one thousand eight hundred and seventy-three, and every six years thereafter.

§ 15. The general assembly may divide the State into judicial circuits of greater population and territory, in lieu of the circuits provided for in section thirteen of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

§ 16. From and after the adoption of this constitution, judges of the circuit courts shall receive a salary of three thousand dollars

per annum, payable quarterly, until otherwise provided by law, and after their salaries shall be fixed by law they shall not be increased or diminished during the terms for which said judges shall be, respectively, elected; and from and after the adoption of this constitution, no judge of the supreme or circuit court shall receive any other compensation, perquisite or benefit, in any form whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

§ 17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the "board of county commissioners," unless he shall be at least twenty-five years of age and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities, or incorporated town in which he shall be elected.

COUNTY COURTS

§ 18. There shall be elected in and for each county one county judge and one clerk of the county court, whose terms of office shall be four years. But the general assembly may create districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of and exercise the powers and jurisdiction of county judges in such districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians and conservators and settlements of their accounts, in all matters relating to apprentices, and in proceedings for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

§ 19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

PROBATE COURTS

§ 20. The general assembly may provide for the establishment of a probate court in each county having a population of over fifty thousand, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices, and in cases of sales of real estate of deceased persons for the payment of debts.

JUSTICES OF THE PEACE AND CONSTABLES

§ 21. Justices of the peace, police magistrates and constables shall be elected in and for such districts as are, or may be, provided by law, and the jurisdiction of such justices of the peace and police magistrates shall be uniform.

STATE'S ATTORNEYS

§ 22. At the election for members of the general assembly in the year of our Lord one thousand eight hundred and seventy-two, and

every four years thereafter, there shall be elected a State's attorney in and for each county, in lieu of the State's attorneys now provided by law, whose terms of office shall be four years.

COURTS OF COOK COUNTY

§ 23. The County of Cook shall be one judicial circuit. The circuit court of Cook county shall consist of five judges, until their number shall be increased as herein provided. The present judge of the recorder's court of the City of Chicago, and the present judge of the circuit court of Cook county, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The superior court of Chicago shall be continued, and called the "Superior Court of Cook County." The general assembly may increase the number of said judges, by adding one to either of said courts for every additional fifty thousand inhabitants in said county over and above a population of four hundred thousand. The terms of office of the judges of said courts, hereafter elected, shall be six years.

§ 24. The judge having the shortest unexpired term shall be chief justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be chief justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

§ 25. The judges of the superior and circuit courts, and the State's attorney, in said county, shall receive the same salaries, payable out of the State treasury, as is or may be paid from said treasury to the circuit judges and State's attorneys of the State, and such further compensation, to be paid by the County of Cook, as is or may be provided by law. Such compensation shall not be changed during their continuance in office.

§ 26. The recorder's court of the city of Chicago shall be continued, and shall be called the "Criminal Court of Cook County." It shall have the jurisdiction of a circuit court in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county, in criminal and *quasi* criminal cases, shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook county shall be held by one or more of the judges of the circuit or superior court of Cook county, as nearly as may be in alternation, as may be determined by said judges, or provided by law. Said judges shall be *ex officio* judges of said court.

§ 27. The present clerk of the recorder's court of the city of Chicago shall be the clerk of the criminal court of Cook county during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook county, shall continue in office during the terms for which they

were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

§ 28. All justices of the peace of the city of Chicago shall be appointed by the governor, by and with the advice and consent of the senate (but only upon the recommendation of a majority of the judges of the circuit, superior and county courts), and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceeding in the circuit or superior court, for extortion or other malfeasance. Existing justices of the peace and police magistrates may hold their offices until the expiration of their respective terms.

GENERAL PROVISIONS

§ 29. All judicial officers shall be commissioned by the governor. All laws relating to courts shall be general and of uniform operation; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments and decrees of such courts, severally, shall be uniform.

§ 30. The general assembly may, for cause entered on the journals, upon due notice and opportunity of defense, remove from office any judge, upon concurrence of three-fourths of all the members elected, of each house. All other officers in this article mentioned shall be removed from office on prosecution and final conviction for misdemeanor in office.

§ 31. All judges of courts of record, inferior to the supreme court, shall, on or before the first day of June of each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest; and the judges of the supreme court shall, on or before the first day of January of each year, report in writing to the governor such defects and omissions in the constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the judges of the several circuit courts shall report to the next general assembly the number of days they have held court in the several counties composing their respective circuits, the preceding two years.

§ 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is or may be provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year the vacancy shall be filled by appointment, as follows: Of judges, by the gov-

ernor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the board of supervisors, or board of county commissioners, in the county where the vacancy occurs.

§ 33. All process shall run: *In the name of the People of the State of Illinois;* and all prosecutions shall be carried on: *In the name and by the authority of the People of the State of Illinois;* and conclude: *Against the peace and dignity of the same.* "Population," wherever used in this article, shall be determined by the next preceding census of this State, or of the United States.

ARTICLE VII

SUFFRAGE [a]

§ 1. Every person having resided in this State one year, in the county ninety days and in the election district thirty days next preceding any election therein, who was an elector in this State on the first day of April, in the year of our Lord, one thousand eight hundred and forty-eight, or obtained a certificate of naturalization, before any court of record in this State, prior to the first day of January, in the year of our Lord one thousand eight hundred and seventy, or who shall be a male citizen of the United States, above the age of twenty-one years, shall be entitled to vote at such election.

§ 2. All votes shall be by ballot.

§ 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be required to do military duty on the days of election, except in time of war or public danger.

§ 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

§ 5. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

§ 6. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

§ 7. The general assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

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[a] This article is practically the same as the corresponding article in the constitution of 1848 except the first section, which in the earlier constitution restricted the suffrage to white male citizens above the age of twenty-one years, who had resided in the State one year.

Article VIII

EDUCATION [a]

§ 1. The general assembly shall provide a thorough and efficient system of free schools whereby all children of this State may receive a good common school education.

§ 2. All lands, moneys or other property, donated, granted or received for school, college, seminary or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

§ 3. Neither the general assembly nor any county, city, town, township, school district or other public corporation shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the State or any such public corporation to any church or for any sectarian purpose.

§ 4. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used or to be used in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

§ 5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation and time and manner of election and term of office shall be prescribed by law.

Article IX

REVENUE

§ 1. The general assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property—such value to be ascertained by some person or persons to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, inn-keepers,

[a] Section six of the Enabling Act of Congress of April 18, 1818 (3 U. S. Statutes at Large, 428), provided that the section numbered sixteen in every township or its equivalent should be granted to the State for the use of the inhabitants of such township, for the use of schools; a proposition that was accepted by the constitutional convention and gave the State the right to such numbered section of every township. It was also provided that three per cent of the net proceeds of all lands lying within the State sold by Congress after January 1, 1819, should be appropriated by the Legislature of the State for the encouragement of learning, one-sixth of which was to be exclusively bestowed on a college or university. Unfortunately for the State, the lands disposed of by the United States in satisfaction of military land warrants were held to be excluded from this provision (110 U. S., 471), so that up to 1895 the State had realized from this source for the permanent school fund only about one hundred and fifty thousand dollars.

grocery-keepers, liquor-dealers, toll-bridges, ferries, insurance, telegraph and express interests or business, venders of patents and persons or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates.

§ 2. The specification of the objects and subjects of taxation shall not deprive the general assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this constitution.

§ 3. The property of the State, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

§ 4. The general assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments, for State, county, municipal, or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive State and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

§ 5. The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate for a period of not less than two years from such sales thereof. And the general assembly shall provide, by law, for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.

§ 6. The general assembly shall have no power to release or discharge any county, city, township, town or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

§ 7. All taxes levied for State purposes shall be paid into the State treasury.

§ 8. County authorities shall never assess taxes the aggregate of which shall exceed seventy-five cents per one hundred dollars valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

§ 9. The general assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but

such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.

§ 10. The general assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

§ 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation. The fees, salary or compensation of no municipal officer who is elected or appointed for a definite term of office shall be increased or diminished during such term.

§ 12. No county, city, township, school district, or other municipal corporation shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness. Any county, city, school district, or other municipal corporation incurring any indebtedness as aforesaid, shall before, or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school district, or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this constitution in pursuance of any law providing therefor.

§ 13. The corporate authorities of the city of Chicago, are hereby authorized to issue interest-bearing bonds of said city to an amount not exceeding five million dollars, at a rate of interest not to exceed five per centum per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the treasurer of the World's Columbian Exposition, and used and disbursed by him under the direction and control of the directors, in aid of the World's Columbian Exposition, to be held in the city of Chicago, in pursuance of an act of Congress of the United States.

Provided, That if at the election for the adoption of this amendment to the constitution, a majority of the votes cast within the limits of the city of Chicago, shall be against its adoption, then no bonds shall be issued under this amendment.

And said corporate authorities shall be repaid as large a proportionate amount of the aid given by them as is repaid to the stockholders on the sums subscribed and paid by them, and the money so received shall be used in the redemption of the bonds issued as aforesaid, provided that said authorities may take in whole or in part of

the sum coming to them any permanent improvements placed on land held or controlled by them.

And, provided further, That no such indebtedness so created shall in any part thereof be paid by the State, or from any State revenue, tax or fund, but the same shall be paid by the said city of Chicago alone.[a]

Article X

COUNTIES

Section 1. No new county shall be formed or established by the general assembly which will reduce the county or counties, or either of them, from which it shall be taken to less contents than four hundred square miles; nor shall any county be formed of less contents: nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

§ 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

§ 3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for, and obliged to pay its proportion of, the indebtedness of the county from which it has been taken.

COUNTY SEATS

§ 4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years, to a vote of the people. But when an attempt is made to remove a county seat to a point nearer to the center of a county, then a majority vote only shall be necessary.

COUNTY GOVERNMENT

§ 5. The general assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall

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[a] This added section was proposed by the General Assembly at the special session, 1890, ratified by a vote of the people November 4th, 1890, and at such election a majority of the votes cast within the limits of the city of Chicago were cast in favor of its adoption and it was proclaimed adopted by the Governor.

adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners, may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization, shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

§ 6. At the first election of county judges under this constitution, there shall be elected in each of the counties in this State, not under township organization, three officers, who shall be styled, "The board of county commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

§ 7. The county affairs of Cook county shall be managed by a board of Commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago and five from towns outside of said city, in such manner as may be provided by law.

COUNTY OFFICERS AND THEIR COMPENSATION [a]

§ 8. In each county there shall be elected the following county officers, at the general election to be held on the Tuesday after the first Monday in November, A. D. 1882: A county judge, county clerk, sheriff and treasurer, and at the election to be held on the Tuesday after the first Monday in November, A. D. 1884, a coroner and clerk of the circuit court (who may be *ex officio* recorder of deeds, except in counties having 60,000 and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in 1884). Each of said officers shall enter upon the duties of his

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[a] As modified by the second amendment to the Constitution of 1870. The joint resolution was adopted by the Senate March 4, 1879, and by the House May 22, 1879. It was adopted by the vote of the people November 2, 1880, and proclaimed ratified November 22, 1880.

The section as originally adopted in the Constitution of 1870 read as follows:

"Section 8. In each county there shall be elected the following county officers: County judge, sheriff, county clerk, clerk of the circuit court (who may be *ex officio* recorder of deeds, except in counties having sixty thousand and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in the year of our Lord 1872), treasurer, surveyor and coroner, each of whom shall enter upon the duties of his office, respectively, on the first Monday of December after their election; and they shall hold their respective offices for the term of four years, except the treasurer, sheriff and coroner, who shall hold their offices for two years, and until their successors shall be elected and qualified."

office, respectively, on the first Monday of December after his election, and they shall hold their respective offices for the term of four years, and until their successors are elected and qualified: *Provided*, that no person having once been elected to the office of sheriff or treasurer, shall be eligible to re-election to said office for four years after the expiration of the term for which he shall have been elected.

§ 9. The clerks of all courts of record, the treasurer, sheriff, coroner and recorder of deeds of Cook county, shall receive as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said county and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

§ 10. The county board, except as provided in section nine of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk hire, stationery, fuel and other expenses, and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected; they shall not allow either of them more per annum than fifteen hundred dollars, in counties not exceeding twenty thousand inhabitants; two thousand dollars, in counties containing twenty thousand and not exceeding thirty thousand inhabitants; twenty-five hundred dollars, in counties containing thirty thousand and not exceeding fifty thousand inhabitants; three thousand dollars, in counties containing fifty thousand and not exceeding seventy thousand inhabitants; thirty-five hundred dollars, in counties containing seventy thousand and not exceeding one hundred thousand inhabitants; and four thousand dollars, in counties containing over one hundred thousand, and not exceeding two hundred and fifty thousand inhabitants; and not more than one thousand dollars additional compensation for each additional one hundred thousand inhabitants: *Provided*, that the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

§ 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this constitution, and such officers shall receive only such fees as are provided by general law.

§ 12. All laws fixing the fees of State, county and township officers, shall terminate with the terms respectively of those who may be in office at the meeting of the first general assembly after the adoption of this constitution; and the general assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the general assembly may, by general law, classify the counties by population into

not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the general assembly of the power to reduce the fees of existing officers.

§ 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

Article XI

CORPORATIONS

§ 1. No corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State, but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

§ 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

§ 3. The general assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

§ 4. No law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

BANKS

§ 5. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint stock company or association for banking purposes now created, or to be hereafter created. No act of the general assembly authorizing or creating corporations or associations with banking powers, whether of issue, deposit or discount, nor amendments thereto, shall go into effect or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

§ 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over

and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

§ 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this State, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be, organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs (which shall be certified to, under oath, by one or more of its officers) as may be provided by law.

§ 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit designed to circulate as money, and require security, to the full amount thereof, to be deposited with the state treasurer, in United States or Illinois State stocks, to be rated at ten per cent below their par value; and in case of a depreciation of said stocks to the amount of ten per cent below par, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer thereof, and to whom such transfer is made.

RAILROADS

§ 9. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the general assembly shall pass laws enforcing by suitable penalties the provisions of this section.

§ 10. The rolling stock, and all other movable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

§ 11. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated or hereafter to be incorporated by the laws of this State, shall be citizens and residents of this State.

§ 12. Railways heretofore constructed or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the general assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

§ 13. No railroad corporation shall issue any stock or bonds, except for money, labor, or property actually received and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days' public notice, in such manner as may be provided by law.

§ 14. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

§ 15. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

Article XII

MILITIA

§ 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of eighteen and forty-five, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State.

§ 2. The general assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

§ 3. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the general assembly may provide.

§ 4. The militia shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

§ 5. The military records, banners and relics of the State shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the general assembly to provide by law for the safe-keeping of the same.

§ 6. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, such person shall pay an equivalent for such exemption.

Article XIII

WAREHOUSES

§ 1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

§ 2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than one hundred thousand inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots shall not be mixed with inferior or superior grades without the consent of the owner or consignee thereof.

§ 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse, in regard to such property.

§ 4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination.

§ 5. All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee and any public warehouse, coal bank or coal yard may be reached by the cars on said railroad.

§ 6. It shall be the duty of the general assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the general assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies.

§ 7. The general assembly shall pass laws for the inspection of grain, for the protection of producers, shippers and receivers of grain and produce.

Article XIV

AMENDMENTS TO THE CONSTITUTION

§ 1. Whenever two-thirds of the members of each house of the general assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly shall, at the next session, provide for a convention, to consist of double the number of members of the senate, to be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the constitution of the United States, and of the State of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration or amendments of the constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted, and approved by a majority of the electors voting at the election, no such revision, alteration or amendments shall take effect.

§ 2. Amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the general assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this constitution. But the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session, nor to the same article oftener than once in four years.

Sections Separately Submitted[a]

ILLINOIS CENTRAL RAILROAD

No contract, obligation or liability whatever, of the Illinois Central Railroad Company to pay any money into the State treasury, nor any lien of the State upon, or right to tax property of said company, in accordance with the provisions or the charter of said company, approved February tenth, in the year of our Lord one thousand eight hundred and fifty-one, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State government, and for no other purposes whatever.

MINORITY REPRESENTATION

[See Sections 7 and 8, Article IV, page 1018]

MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS

No county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation: *Provided, however*, that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

CANAL

[Railroad State aid prohibited]

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State, at a general election, and have been approved by a majority of all the votes polled at such election. The general assembly shall never loan the credit of the State, or make appropriations from the treasury thereof, in aid of railroads or canals: *Provided*, that any surplus earnings of any canal may be appropriated for its enlargement or extension.

Schedule

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

§ 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts of the State, individuals, or bodies corporate, shall continue to be as valid as if this constitution had not been adopted.

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[a] These sections were separately submitted to the vote of the people; they went into effect as law July 2, 1870.

§ 2. That all fines, taxes, penalties and forfeitures, due and owing to the State of Illinois under the present constitution and laws, shall inure to the use of the people of the State of Illinois, under this constitution.

§ 3. Recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Illinois, to any State or county officer, or public body, shall remain binding and valid; and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this State.

§ 4. County courts for the transaction of county business in counties not having adopted township organization shall continue in existence, and exercise their present jurisdiction until the board of county commissioners provided in this constitution is organized in pursuance of an act of the general assembly; and the county courts in all other counties shall have the same power and jurisdiction they now possess until otherwise provided by law.

§ 5. All existing courts which are not in this constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law.

§ 6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

[Sections 7 to 17, both inclusive, providing for the submission of this constitution and voting thereon by the people, became inoperative by the adoption of this constitution.]

§ 7. On the day this constitution is submitted to the people for ratification an election shall be held for judges of the supreme court in the second, third, sixth and seventh judicial election districts designated in this constitution, and for the election of three judges of the circuit court in the county of Cook, as provided for in the article of this constitution relating to the judiciary, at which election every person entitled to vote, according to the terms of this constitution, shall be allowed to vote, and the election shall be otherwise conducted, returns made, and certificates issued, in accordance with existing laws, except that no registry shall be required at said election: *Provided*, that at said election in the county of Cook no elector shall vote for more than two candidates for circuit judge. If, upon canvassing the votes for and against the adoption of this constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any of said supreme or circuit judges.

§ 8. This constitution shall be submitted to the people of the State of Illinois for adoption or rejection at an election to be held on the first Saturday in July, in the year of our Lord one thousand eight hundred and seventy, and there shall be separately submitted at the same time, for adoption or rejection, sections nine, ten, eleven, twelve, thirteen, fourteen and fifteen relating to railroads, in the article entitled "Corporations," the article entitled "Counties," the article entitled "Warehouses," the question of requiring a three-

fifths vote to remove a county seat, the section relating to the Illinois Central Railroad, the section in relation to minority representation, the section relating to municipal subscriptions to railroads or private corporations, and the section relating to the canal. Every person entitled to vote under the provisions of this constitution, as defined in the article in relation to suffrage, shall be entitled to vote for the adoption or rejection of this constitution, and for or against the articles, sections and questions aforesaid, separately submitted, and the said qualified electors shall vote at the usual places of voting, unless otherwise provided; and the said election shall be conducted, and returns thereof made, according to the laws now in force regulating general elections, except that no registry shall be required at said election: *Provided, however*, that the polls shall be kept open for the reception of ballots until sunset of said day of election.

§ 9. The secretary of state shall, at least twenty days before said election, cause to be delivered to the county clerk of each county, blank poll-books, tally-sheets, and forms of return, and twice the number of properly prepared printed ballots for the said election that there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the secretary of state is, by law, required to be audited and paid, and the several county clerks shall at least five days before said election, cause to be distributed to the board of election, in each election district in their respective counties, said blank poll-books, tally-lists, forms of return, and tickets.

§ 10. At the said election the ballots shall be in the following form:

NEW CONSTITUTION TICKET

For all the propositions on this ticket which are not cancelled with ink or pencil, and against all propositions which are so cancelled.

For the new constitution.

For the sections relating to railroads in the article entitled "Corporations."

For the article entitled "Counties."

For the article entitled "Warehouses."

For a three-fifths vote to remove county seats.

For the section relating to the Illinois Central Railroad.

For the section relating to minority representation.

For the section relating to municipal subscriptions to railroads or private corporations.

For the section relating to the canal.

Each of said tickets shall be counted as a vote cast for each proposition thereon not cancelled with ink or pencil, and against each proposition so cancelled, and returns thereof shall be made accordingly by the judges of election.

§ 11. The returns of the whole vote cast, and of the votes for the adoption or rejection of this constitution, and for or against the articles and sections respectively submitted, shall be made by the several county clerks, as is now provided by law, to the secretary of state, within twenty days after the election, and the returns of said votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer and secretary of state, or any two of them,

in the presence of the governor, and proclamation shall be made by the governor forthwith of the result of the canvass.

§ 12. If it shall appear that a majority of the votes polled are "for the new constitution," then so much of this constitution as was not separately submitted to be voted on by articles and sections, shall be the supreme law of the State of Illinois on and after Monday, the eighth day of August, in the year of our Lord one thousand eight hundred and seventy; but if it shall appear that a majority of the votes polled were "against the new constitution," then so much thereof as was not separately submitted to be voted on by articles and sections, shall be null and void.

If it shall appear that a majority of the votes polled are "for the sections relating to railroads in the article entitled 'Corporations,'" sections nine, ten, eleven, twelve, thirteen, fourteen and fifteen, relating to railroads in the said article, shall be a part of the constitution of this State, but if a majority of said votes are against such sections, they shall be null and void. If a majority of the votes polled are "for the article entitled 'Counties,'" such article shall be part of the constitution of this State, and shall be substituted for article seven, in the present constitution, entitled "Counties;" but if a majority of said votes are against such article the same shall be null and void. If a majority of the votes polled are "for the article entitled 'Warehouses,'" such article shall be part of the constitution of this State; but if a majority of the votes are against said article, the same shall be null and void. If a majority of the votes polled are for either of the sections separately submitted, relating respectively to the "Illinois Central Railroad," "minority representation," "municipal subscriptions to railroads or private corporations," and the "canal," then such of said sections as shall receive such majority shall be a part of the constitution of this State; but each of said sections so separately submitted against which respectively there shall be a majority of the votes polled, shall be null and void: *Provided*, that the section relating to "minority representation" shall not be declared adopted unless the portion of the constitution not separately submitted to be voted on by articles and sections shall be adopted; and in case said section relating to "minority representation" shall become a portion of the constitution, it shall be substituted for sections seven and eight of the legislative article. If a majority of the votes cast at such election shall be for a three-fifths vote to remove a county seat, then the words "a majority" shall be stricken out of section four of the article on Counties, and the words "three-fifths" shall be inserted in lieu thereof, and the following words shall be added to said section, to-wit: "But when an attempt is made to remove a county seat to a point nearer to the centre of a county, then a majority vote only shall be necessary." If the foregoing proposition shall not receive a majority of the votes, as aforesaid, then the same shall have no effect whatever.

§ 13. Immediately after the adoption of this constitution, the governor and secretary of state shall proceed to ascertain and fix the apportionment of the State for members of the first house of representatives under this constitution. The apportionment shall be based upon the federal census of the year of our Lord one thousand eight hundred and seventy, of the State of Illinois, and shall be made strictly in accordance with the rules and principles announced in the article on the legislative department of this constitution:

Provided, that in case the federal census aforesaid can not be ascertained prior to Friday, the twenty-third day of September, in the year of our Lord one thousand eight hundred and seventy, then the said apportionment shall be based on the State census of the year of our Lord one thousand eight hundred and sixty-five, in accordance with the rules and principles aforesaid. The governor shall, on or before Wednesday, the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and seventy, make official announcement of said apportionment, under the great seal of the State; and one hundred copies thereof, duly certified, shall be forthwith transmitted by the secretary of state to each county clerk for distribution.

§ 14. The districts shall be regularly numbered by the secretary of state, commencing with Alexander county as number one, and proceeding then northwardly through the State, and terminating with the county of Cook, but no county shall be numbered as more than one district, except the county of Cook, which shall constitute three districts, each embracing the territory contained in the now existing representative districts of said county. And on the Tuesday after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, the members of the first house of representatives under this constitution shall be elected according to the apportionment fixed and announced as aforesaid, and shall hold their offices for two years, and until their successors shall be elected and qualified.

§ 15. The senate, at its first session under this constitution, shall consist of fifty members, to be chosen as follows: At the general election held on the first Tuesday after the first Monday of November, in the year of our Lord one thousand eight hundred and seventy, two senators shall be elected in districts where the term of senators expires on the first Monday of January, in the year of our Lord one thousand eight hundred and seventy-one, or where there shall be a vacancy, and in the remaining districts one senator shall be elected. Senators so elected shall hold their office two years.

§ 16. The general assembly, at its first session held after the adoption of this constitution, shall proceed to apportion the State for members of the senate and house of representatives, in accordance with the provisions of the article on the legislative department.

§ 17. When this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties of the State, or in case of vacancies, to the coroners, for the election of all the officers the time of whose election is fixed by this constitution or schedule, and it shall be the duty of said sheriffs or coroners to give such notice of the time and place of said election as is now prescribed by law.

§ 18. All laws of the State of Illinois and all official writings, and the executive, legislative and judicial proceedings, shall be conducted, preserved and published in no other than the English language.

§ 19. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

§ 20. The circuit clerks of the different counties having a population over sixty thousand shall continue to be recorders (*ex officio*) for

their respective counties, under this constitution, until the expiration of their respective terms.

§ 21. The judges of all courts of record in Cook county shall, in lieu of any salary provided for in this constitution, receive the compensation provided by law until the adjournment of the first session of the general assembly after the adoption of this constitution.

§ 22. The present judge of the circuit court of Cook county shall continue to hold the circuit court of Lake county until otherwise provided by law.

§ 23. When this constitution shall be adopted and take effect as the supreme law of the State of Illinois, the two-mill tax provided to be annually assessed and collected upon each dollar's worth of taxable property, in addition to all other taxes, as set forth in article fifteen of the now existing constitution, shall cease to be assessed after the year of our Lord one thousand eight hundred and seventy.

§ 24. Nothing contained in this constitution shall be so construed as to deprive the general assembly of power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes for which the people of said city shall have voted and to which they shall have given, by such vote, their assent, prior to the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-nine: *Provided*, that no such indebtedness so created shall, in any part thereof, be paid by the State or from any State revenue tax or fund, but the same shall be paid, if at all, by the said city of Quincy alone, and by taxes to be levied upon the taxable property thereof: *And, provided, further*, that the general assembly shall have no power in the premises that it could not exercise under the present constitution of the State.

§ 25. In case this constitution, and the articles and sections submitted separately be adopted, the existing constitution shall cease in all its provisions; and in case this constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing constitution, if any, on the same subject shall remain in force.

§ 26. The provisions of this constitution required to be executed prior to the adoption or rejection thereof, shall take effect and be in force immediately.

[ATTESTATION]

Done in convention at the capitol in the city of Springfield, on the thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the independence of the United States of America the ninety-fourth.

In witness whereof, we have hereunto subscribed our names.

CHARLES HITCHCOCK, *President.*

Attest:

JOHN Q. HARMON,
Secretary.

DANIEL SHEPARD,
First Assistant Secretary.

A. H. SWAIN,
Second Assistant Secretary.

AMENDMENTS [a]

An amendment to the constitution becomes law as soon as it is declared ratified by the board of canvassers, if not as soon as the polls are closed on the day of its adoption. People *v.* Board of Supervisors, 100 Ill., 495.

(2) Proposed by joint resolution of the Thirty-fourth General Assembly (L. 1885, p. 256); adopted by vote of the people November 2, 1886; proclaimed ratified November 22, 1886.

CONTRACT CONVICT LABOR

Hereafter it shall be unlawful for the commissioners of any penitentiary or other reformatory institution in the State of Illinois to let by contract to any person or persons, or corporations, the labor of any convict confined within said institution.

UNITED STATES OF AMERICA,
State of Illinois, Office of Secretary of State, ss:

I, James A. Rose, Secretary of State of the State of Illinois, do hereby certify that the foregoing is a true copy of the Constitution of the State of Illinois, adopted in convention on the thirteenth day of May, 1870, ratified by a vote of the people on the 2d day of July, 1870, and in force on the 8th day of August, 1870, and as amended in 1878, in 1880, in 1884, in 1886 and in 1890, and now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the Great Seal of State. Done at the city of Springfield this 15th day of January, A. D. 1900.

JAMES A. ROSE,
Secretary of State.

[a] For the first, second, and third amendments, see pages 1018, 1023, 1025, 1038, and 1039.

INDIANA

Virginia Act of Cession, 1783 (Illinois, p. 955).
Deed of Cession from Virginia, 1784 (Illinois, p. 957).
Northwest Territorial Government, 1787 (Illinois, p. 957).
Virginia Act of Ratification, 1788 (Illinois, p. 963).
Northwest Territorial Government, 1789 (Illinois, p. 963).
Territorial Government of Indiana, 1800 (Illinois, p. 964).
Territorial Government of Indiana, 1809 (Illinois, p. 966).

TERRITORIAL GOVERNMENT OF INDIANA—1814[a]

[THIRTEENTH CONGRESS, SECOND SESSION]

An Act to establish the mode of laying off the Territory of Indiana into districts, for the election of its members of the legislative council.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the house of representatives of the Indiana Territory be, and it is hereby, empowered, from time to time, to lay off the said Territory into five districts for the election of the members of the legislative council of the Territory aforesaid.

SEC. 2. *And be it further enacted*, That the districts established by Governor Harrison, in the year of our Lord one thousand eight hundred and nine, shall remain as the lawfully-authorized districts for the election of the members of the legislative council of said Territory, until the house of representatives thereof shall have exercised the power vested in that body by the first section of this act.

Approved, March 4, 1814.

ENABLING ACT FOR INDIANA—1816

[FOURTEENTH CONGRESS, FIRST SESSION]

An Act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Indiana be, and they are hereby, authorized

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[a] For other statutes of an organic nature relating to Indiana see the act to extend right of suffrage in Indiana Territory, acts of February 26, 1808, February 27, 1809, December 15, 1809, March 3, 1811; to fix the boundaries of, May 20, 1812; to determine cases begun before division of Territory, June 10, 1812; to district the State for election of representatives, March 4, 1814; to regulate courts of justice, February 24, 1815; to provide for the due execution of the laws of the United States in, March 3, 1817.

to form for themselves a constitution and State government, and to assume such name as they shall deem proper: and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

Sec. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south, by the river Ohio, from the mouth of the Great Miami River to the mouth of the river Wabash; on the west, by a line drawn along the middle of the Wabash, from its mouth to a point where a due-north line drawn from the town of Vincennes would last touch the northwestern shore of the said river; and from thence by a due-north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north, by the said east and west line, until the same shall intersect the first-mentioned meridian-line which forms the western boundary of the State of Ohio: *Provided*, That the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also*, That the said State shall have concurrent jurisdiction on the river Wabash with the State to be formed west thereof, so far as the said river shall form a common boundary to both.

Sec. 3. *And be it further enacted*, That all male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the day of election, and shall have paid a county or territorial tax; and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the said Territory, according to the apportionment made by the legislature thereof, at their last session, to wit: From the county of Wayne, four representatives; from the county of Franklin, five representatives; from the county of Dearborn, three representatives; from the county of Switzerland, one representative; from the county of Jefferson, three representatives; from the county of Clark, five representatives; from the county of Harrison, five representatives; from the county of Washington, five representatives; from the county of Knox, five representatives; from the county of Gibson, four representatives; from the county of Posey, one representative; from the county of Warrick, one representative; and from the county of Perry, one representative. And the election for the representatives aforesaid shall be holden on the second Monday of May, one thousand eight hundred and sixteen, throughout the several counties in the said Territory; and shall be conducted in the same manner, and under the same penalties, as prescribed by the laws of the said Territory, regulating elections therein for members of the house of representatives.

Sec. 4. *And be it further enacted*, That the members of the convention thus duly elected be, and they are hereby, authorized to meet at the seat of the government of the said Territory, on the second Monday of June next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or

be not expedient, at that time, to form a constitution and State government for the people within the said Territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government; or if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution, or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form, for the people of said Territory, a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to those articles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, which are declared to be irrevocable between the original States, and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed.

SEC. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Indiana, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section numbered sixteen, in every township, and when such section has been sold, granted, or disposed of, other lands, equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools.

Second. That all salt-springs within the said Territory, and the land reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding, in the whole, the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used under such terms, conditions, and regulations as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer period than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State under the direction of Congress.

Fourth. That one entire township, which shall be designated by the President of the United States, in addition to the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature.

Fifth. That four sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of gov-

ernment thereon, which four sections shall, under the direction of the legislature of said State, be located at any time, in such township and range as the legislature aforesaid may select, on such lands as may hereafter be acquired by the United States from the Indian tribes within the said Territory: *Provided*, That such location shall be made prior to the public sale of the lands of the United States surrounding such location: *And provided always*, That the five foregoing provisions, herein offered, are on the conditions that the convention of the said State shall provide by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of December next, shall be and remain exempt from any tax, laid by order or under any authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale.

Approved, April 19, 1816.

ORDINANCE ACCEPTING ENABLING ACT—1816

Be it ordained by the representatives of the people of the Territory of Indiana, in convention met at Corydon, on Monday, the tenth day of June, in the year of our Lord eighteen hundred and sixteen, That we do, for ourselves and our posterity, agree, determine, declare, and ordain, that we will, and do hereby, accept the propositions of the Congress of the United States, as made and contained in their act of the nineteenth day of April, eighteen hundred and sixteen, entitled "An act to enable the people of the Indiana Territory to form a State government and constitution, and for the admission of such State into the Union, on an equal footing with the original States."

And we do further, for ourselves and our posterity, hereby ratify, confirm, and establish the boundaries of the said State of Indiana, as fixed, prescribed, laid down, and established in the act of Congress aforesaid; and we do also, further, for ourselves and our posterity, hereby agree, determine, declare, and ordain that each and every tract of land sold by the United States, lying within the said State, and which shall be sold from and after the first day of December next, shall be and remain exempt from any tax laid by order or under any authority of the said State of Indiana, or by or under the authority of the general assembly thereof, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale of any such tract of land: and we do, moreover, for ourselves and our posterity, hereby declare and ordain, that this ordinance, and every part thereof, shall forever be and remain irrevocable and inviolate, without the consent of the United States, in Congress assembled, first had and obtained for the alteration thereof, or any part thereof.

JONATHAN JENNINGS,
President of the Convention.

June 29th, 1816.

Attest, June 29th, 1816:
WILLIAM HENDRICKS,
Secretary.

RESOLUTION OF CONGRESS—1816

[Fourteenth Congress, Second Session.]

Resolution for admitting the State of Indiana into the Union.

Whereas, in pursuance of an act of Congress passed on the nineteenth day of April, one thousand eight hundred and sixteen, entitled "An act to enable the people of Indiana Territory to form a constitution and State government, and for the admission of that State into the Union," the people of the said Territory did, on the twenty-ninth day of June, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity with the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Indiana shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 11, 1816.

CONSTITUTION OF INDIANA—1816 *

CONSTITUTION 1816

We the Representatives of the people of the Territory of Indiana, in Convention met, at Corydon, on Monday the tenth day of June in the year of our Lord eighteen hundred and sixteen, and of the Independence of the United States the Fortieth, having the right of admission into the General Government, as a member of the Union, consistent with the constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty seven, and the law of Congress, entitled "An act to enable the people of the Indiana Territory to form a constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States" in order to establish Justice, promote the welfare, and secure the blessings of liberty to ourselves and our posterity; do ordain and establish the following constitution or form of Government, and do mutually agree with each other to form ourselves into a free and Independent State, by the name of the State of Indiana.

Article I

Section 1. That the general, great and essential principles of liberty and free Government may be recognized and unalterably established; we declare, that all men are born equally free and independent,

* Verified by "The Constitutions of 1816 and 1851 of the State of Indiana and Amendments. Claude Matthews, Secretary of State. By Authority. Indianapolis: Wm. B. Burford, Contractor for State printing and binding. 1891."

and have certain natural inherent, and unalienable rights; among which are the enjoying and defending life and liberty, and of acquiring, possessing and protecting property and pursuing and obtaining happiness and safety.

Sec. 2. That all power is inherent in the people; and all free Governments are founded on their authority, and instituted for their peace, safety and happiness. For the advancement of these ends, they have at all times an unalienable and indefeasible right to alter or reform their Government in such manner as they may think proper.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God, according to the dictates of their own consciences: That no man shall be compelled to attend, enact, or support any place of worship or to maintain any ministry against his consent. That no human authority can, in any case whatever, control or interfere with the rights of conscience: and that no preference shall ever be given by law to any religious Societies, or modes of worship; and no religious test shall be required as a qualification to any office of trust or profit.

Sec. 4. That elections shall be free and equal.

Sec. 5. That in all civil cases, when the value in controversy shall exceed the sum of twenty dollars, and in all criminal cases, except in petit misdemeanors which shall be punished by fine only, not exceeding three dollars, in such manner as the Legislature may prescribe by law; the right of trial by jury shall remain inviolate.

Sec. 6. That no power of suspending the operation of the laws, shall be exercised, except by the Legislature, or its authority.

Sec. 7. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without a just compensation being made therefore.

Sec. 8. The rights of the people, to be secure in their persons, houses, papers, and effects, against unreasonable searches, and seizures, shall not be violated: and no warrant shall issue, but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Sec. 9. That the printing presses shall be free to every person, who undertakes to examine the proceedings of the Legislature, or any branch of Government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts, and opinions, is one of the invaluable rights of man: and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

Sec. 10. In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for the public information, the truth thereof may be given in evidence; and in all indictments for libels, the Jury shall have a right to determine the law and the facts, under the direction of the Court, as in other cases.

Sec. 11. That all Courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation shall have remedy by the due course of law; and right and justice administered without denial or delay.

Sec. 12. That no person arrested, or confined in jail, shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment or impeachment.

Sec. 13. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecution by indictment or presentment a speedy public trial by an impartial Jury of the county or district in which the offense shall have been committed; and shall not be compelled to give evidence against himself nor shall be twice put in jeopardy for the same offense.

Sec. 14. That all persons shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident, or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of rebellion or invasion, the public safety may require it.

Sec. 15. Excessive bail shall not be required, excessive fines shall not be imposed, nor cruel and unusual punishments inflicted.

Sec. 16. All penalties shall be proportioned to the nature of the offense.

Sec. 17. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

Sec. 18. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made, and no conviction shall work corruption of blood, nor forfeiture of estate.

Sec. 19. That the people have a right to assemble together in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the Legislature for redress of grievances.

Sec. 20. That the people have a right to bear arms for the defense of themselves and the State, and that the military shall be kept in strict subordination to the civil power.

Sec. 21. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Sec. 22. That the Legislature shall not grant any title of nobility, or heredity distinctions, nor create any office, the appointment to which shall be for a longer time than good behavior.

Sec. 23. That emigration from the State shall not be prohibited.

Sec. 24. To guard against any encroachments on the rights herein retained, we declare, that everything in this article, is excepted out of the general powers of Government, and shall forever remain inviolable.

Article II

The powers of the Government of Indiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to-wit; Those which are Legislative to one, those which are Executive to another, and those which are Judiciary

to another; and no person or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Article III

Section 1. The Legislative authority of this State, shall be vested in a General Assembly, which shall consist of a Senate, and House of Representatives, both to be elected by the people.

Sec. 2. The General Assembly may, within two years after their first meeting, and shall, in the year eighteen hundred and twenty, and every subsequent term of five years, cause an enumeration to be made, of all the white male inhabitants above the age of twenty-one years. The number of Representatives shall, at the several periods of making such enumeration, be fixed by the General Assembly, and apportioned among the several counties according to the number of white male inhabitants above twenty-one years of age in each; and shall never be less than twenty-five, nor greater than thirty-six, until the number of white male inhabitants above twenty-one years of age shall be twenty-two thousand; and after that event, at such ratio, that the whole number of Representatives shall never be less than thirty-six, nor exceed one hundred.

Sec. 3. The Representatives shall be chosen annually, by the qualified electors of each county respectively, on the first Monday of August.

Sec. 4. No person shall be a Representative, unless he shall have attained the age of twenty-one years, and shall be a citizen of the United States, and an inhabitant of this State, and shall also have resided within the limits of the county, in which he shall be chosen, one year next preceding his election, if the county shall have been so long erected, but if not, then within the limits of the county or counties out of which it shall have been taken, unless he shall have been absent on the public business of the United States, or of this State, and shall have paid a State or county tax.

Sec. 5. The Senators shall be chosen for three years, on the first Monday in August, by the qualified votes for Representatives; and on this being convened, in consequence of the first election, they shall be divided by lot, from their respective counties, or districts, as near as can be, into three classes; the seats of the Senators of the first class shall be vacated at the expiration of the first year; and the second class, at the expiration of the second year; and of the third class, at the expiration of the third year; so that one-third thereof, as near as possible, may be annually chosen forever thereafter.

Sec. 6. The number of Senators shall, at the several periods of making the enumeration before mentioned, be fixed by the General Assembly, and apportioned among the several counties or districts, to be established by law, according to the number of white male inhabitants of the age of twenty-one years in each, and shall never be less than one-third, nor more than one-half of the number of Representatives.

Sec. 7. No person shall be a Senator, unless he shall have attained the age of twenty-five years, and shall be a citizen of the United States, and shall, next preceding the election, have resided two years

in the State, the last twelve months of which in the county or district in which he may be elected, if the county or district shall have been so long erected, but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken; unless he shall have been absent on the public business of the United States, or of this State, and shall moreover have paid a State or county tax.

SEC. 8. The House of Representatives, when assembled, shall choose a Speaker, and its other officers, and the Senate shall choose its officers, except the President, and each shall be judges of the qualifications and elections of its members, and sit upon its own adjournments. Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 9. Each House shall keep a Journal of its proceedings, and publish them. The yeas and nays of the members, on any question, shall, at the request of any two of them, be entered on the Journals.

SEC. 10. Anyone member of either House shall have liberty to dissent from, and protest against, any act or resolution which he may think injurious to the public, or any individual or individuals, and have the reasons of his dissent entered on the Journals.

SEC. 11. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

SEC. 12. When vacancies happen in either branch of the General Assembly, the Governor, or person exercising the power of Governor, shall issue writs of election to fill such vacancies.

SEC. 13. Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during the session of the General Assembly, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

SEC. 14. Each House may punish, by imprisonment, during their session, any person, not a member, who shall be guilty of any disrespect to the House, by any disorderly, or contemptuous behavior in their presence; *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 15. The doors of each House, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the House, may require secrecy. Neither House shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 16. Bills may originate in either House, but may be altered, amended, or rejected by the other.

SEC. 17. Every bill shall be read on three different days in each House, unless, in case of urgency, two-thirds of the House, where such bill may be depending, shall deem it expedient to dispense with this rule, and every bill, having passed both Houses, shall be signed by the President and Speaker of their respective Houses.

SEC. 18. The style of the laws of this State shall be, "Be it enacted by the General Assembly of the State of Indiana."

Sec. 19. All bills for raising revenue shall originate in the House of Representatives; but the Senate may amend or reject, as in other bills.

Sec. 20. No person, holding any office under the authority of the President of the United States, or of this State, military offices excepted, shall be eligible to a seat in either branch of the General Assembly, unless he resign his office previous to his election, nor shall any member of either branch of the General Assembly, during the time for which he is elected, be eligible to any office, the appointment of which is vested in the General Assembly: *Provided*, That nothing, in this Constitution, shall be so construed, as to prevent any member of the first session of the first General Assembly from accepting any office that is created by this Constitution, or the Constitution of the United States, and the salaries of which are established.

Sec. 21. No money shall be drawn from the Treasury, but in consequence of appropriations made by law.

Sec. 22. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws, at every annual session of the General Assembly.

Sec. 23. The House of Representatives shall have the sole power of impeaching; but a majority of all the members elected must concur in such impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of a majority of all the Senators elected.

Sec. 24. The Governor, and all civil officers of the State, shall be removed from office, on impeachment for and conviction of, treason, bribery, or other high crimes and misdemeanors; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust, under this State. The party, whether convicted or acquitted shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law.

Sec. 25. The first session of the General Assembly shall commence on the first Monday of November next, and forever after the General Assembly shall meet on the first Monday in December in every year, and at no other period, unless directed by law, or provided for by this Constitution.

Sec. 26. No person, who hereafter may be a collector, or holder of public money, shall have a seat in either house of the General Assembly, until such person shall have accounted for, and paid into the Treasury all sums for which he may be accountable.

Article IV

Section 1. The Supreme Executive power of this State shall be vested in a Governor, who shall be styled, the Governor of the State of Indiana.

Sec. 2. The Governor shall be chosen by the qualified electors on the first Monday in August, at the places where they shall respectively vote for Representatives. The returns of every election for Governor shall be sealed up and transmitted to the seat of Government, directed to the Speaker of the House of Representatives, who shall open and

publish them in the presence of both Houses of the General Assembly. The person having the highest number of votes shall be Governor, but if two or more shall be equal, and highest in votes, one of them shall be chosen Governor by the joint vote of the members of both Houses. Contested elections shall be determined by a committee, to be selected from both Houses of the General Assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The Governor shall hold his office during three years, from and after the third day of the First Session of the General Assembly next ensuing his election, and until a successor shall be chosen and qualified, and shall not be capable of holding it longer than six years in any term of nine years.

SEC. 4. He shall be at least thirty years of age, and shall have been a citizen of the United States ten years, and have resided in the State five years next preceding his election; unless he shall have been absent on the business of the State, or of the United States: *Provided*, That this shall not disqualify any person from the office of Governor, who shall be a citizen of the United States, and shall have resided in the Indiana Territory two years next preceding the adoption of this Constitution.

SEC. 5. No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of Governor, or Lieutenant-Governor.

SEC. 6. The Governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 7. He shall be Commander-in-Chief of the Army and Navy of this State and of the Militia thereof, except when they shall be called into the service of the United States, but he shall not command personally in the field, unless he shall be advised so to do, by a resolution of the General Assembly.

SEC. 8. He shall nominate, and, by and with the advice and consent of the Senate, appoint and commission all officers, the appointment of which is not otherwise directed by this Constitution, and all offices which may be created by the General Assembly shall be filled in such manner as may be directed by law.

SEC. 9. Vacancies that may happen in offices, the appointment of which is vested in the Governor and Senate, or in the General Assembly, shall be filled by the Governor, during the recess of the General Assembly, by granting commissions that shall expire at the end of the next session.

SEC. 10. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachments.

SEC. 11. He may require information in writing, from the officers in the executive departments, upon any subject relating to the duties of their respective offices.

SEC. 12. He shall, from time to time, give to the General Assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 13. He may, in extraordinary occasions, convene the General Assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or from contagious disorders, and in case of a disagreement between the two Houses with respect to the time of adjournment,

adjourn them to such time as he shall think proper not beyond the time of their next annual session.

Sec. 14. He shall take care that the laws be faithfully executed.

Sec. 15. A Lieutenant-Governor shall be chosen at every election for Governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for Governor and Lieutenant-Governor the electors shall distinguish whom they vote for as Governor and whom as Lieutenant-Governor.

Sec. 16. He shall, by virtue of his office, be President of the Senate, have a right, when in Committee of the Whole, to debate and vote on all subjects, and, when the Senate are equally divided, to give the casting vote.

Sec. 17. In case of impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the Lieutenant-Governor shall exercise all the powers and authority appertaining to the office of Governor until another be duly qualified, or the Governor absent or impeached shall return or be acquitted.

Sec. 18. Whenever the Government shall be administered by the Lieutenant-Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own members as President for that occasion. And if, during the vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the President of the Senate *pro tem.* shall in like manner administer the Government until he shall be superseded by a Governor or Lieutenant-Governor. The Lieutenant-Governor, while he acts as President of the Senate, shall receive for his services the same compensation which shall for the same period be allowed to the Speaker of the House of Representatives, and no more; and during the time he administers the Government, as Governor, shall receive the same compensation which the Governor would have received and been entitled to had he been employed in the duties of his office, and no more.

Sec. 19. The President *pro tempore* of the Senate, during the time he administers the Government, shall receive in like manner the same compensation which the Governor would have received had he been employed in the duties of his office, and no more.

Sec. 20. If the Lieutenant-Governor shall be called upon to administer the Government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the General Assembly, it shall be the duty of the Secretary of State for the time being to convene the Senate for the purpose of choosing a President *pro tempore*.

Sec. 21. A Secretary of State shall be chosen by the joint ballot of both houses of the General Assembly, and be commissioned by the Governor for four years, or until a new Secretary be chosen and qualified. He shall keep a fair register, and attest all the official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto before either House of the General Assembly, and shall perform such other duties as may be enjoined him by law.

Sec. 22. Every bill, which shall have passed both Houses of the General Assembly, shall be presented to the Governor; if he approves, he shall sign it; but if not, he shall return it, with his objections, to

the House in which it [may] have originated, who shall enter the objections at large upon their Journals and proceed to reconsider it; if after such reconsiderations, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that House, it shall be a law; but, in such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for, and against the bill, shall be entered on the Journals of each House respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it; unless the general adjournment prevents its return, in which case it shall be a law, unless sent back within three days after their next meeting.

Sec. 23. Every resolution, to which the convenience of both Houses may be necessary, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by a majority of all the members elected to both Houses, according to the rules and limitations prescribed in case of a bill.

Sec. 24. There shall be elected, by joint ballot of both Houses of the General Assembly, a Treasurer and Auditor, whose powers and duties shall be prescribed by law, and who shall hold their offices three years, and until their successors be appointed and qualified.

Sec. 25. There shall be elected in each county, by the qualified electors thereof, one Sheriff, and one Coroner, at the times and places of holding elections for members of the General Assembly. They shall continue in office two years, and until successors shall be chosen and duly qualified: *Provided*, That no person shall be eligible to the office of Sheriff more than four years in any term of six years.

Sec. 26. There shall be a seal of this State, which shall be kept by the Governor and used by him officially, and shall be called the Seal of the State of Indiana.

Article V

Section 1. The judiciary power of this State, both as to matters of law and equity, shall be vested in one Supreme Court, in Circuit Courts, and in such other inferior Courts, as the General Assembly may, from time to time, direct and establish.

Sec. 2. The Supreme Court shall consist of three Judges, any two of whom shall form a quorum, and shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State, under such restrictions and regulations not repugnant to this Constitution, as may from time to time be prescribed by law: *Provided*, Nothing in this article shall be so construed, as to prevent the General Assembly from giving the Supreme Court original jurisdiction in capital cases, and cases in chancery, where the President of the Circuit Court may be interested or prejudiced.

Sec. 3. The Circuit Courts shall each consist of a President and two Associate Judges. The State shall be divided, by law, into three circuits, for each of which a President shall be appointed, who, during his continuance in office, shall reside therein. The President and

Associate Judges, in their respective counties, shall have common law and chancery jurisdiction, as also complete criminal jurisdiction in all such cases and in such manner as may be prescribed by law. The President alone, in the absence of the Associate Judges, or the President and one of the Associate Judges, in the absence of the other, shall be competent to hold a Court, as also the two Associate Judges in the absence of the President, shall be competent to hold a Court, except in capital cases and cases in chancery: *Provided*, That nothing herein contained shall prevent the General Assembly from increasing the number of circuits and Presidents as the exigencies of the State may from time to time require.

Sec. 4. The Judges of the Supreme Court, the Circuit, and other inferior courts shall hold their offices during the term of seven years, if they shall so long behave well, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

Sec. 5. The Judges of the Supreme Court shall, by virtue of their offices, be conservators of the peace throughout the State, as also the Presidents of the Circuit Courts in their respective circuits, and the Associate Judges in their respective counties.

Sec. 6. The Supreme Court shall hold its sessions at the seat of government, at such times as shall be prescribed by law: and the Circuit Courts shall be held in the respective counties as may be directed by law.

Sec. 7. The Judges of the Supreme Court shall be appointed by the Governor, by and with the advice and consent of the Senate. The Presidents of the Circuit Courts shall be appointed by joint ballot of both branches of the General Assembly, and the Associate Judges of the Circuit Courts shall be elected by the qualified electors in the respective counties.

Sec. 8. The Supreme Court shall appoint its own Clerk, and the Clerks of the Circuit Court in the several counties shall be elected by the qualified electors in the several counties, but no person shall be eligible to the office of Clerk of the Circuit Court in any county unless he shall first have obtained, from one or more of the Judges of the Supreme Court, or from one or more of the Presidents of the Circuit Courts, a certificate that he is qualified to execute the duties of the office of Clerk of the Circuit Court: *Provided*, That nothing herein contained shall prevent the Circuit Courts in each county from appointing a Clerk *pro tem.* until a qualified Clerk may be duly elected: and *Provided, also*, That the said Clerks, respectively, when qualified and elected, shall hold their offices seven years, and no longer, unless reappointed.

Sec. 9. All Clerks shall be removable by impeachment as in other cases.

Sec. 10. When any vacancies happen in any of the Courts, occasioned by the death, resignation or removal from office of any Judge of the Supreme or Circuit Courts, or any of the Clerks of the said Courts, a successor shall be appointed in the same manner as herein before prescribed, who shall hold his office for the period which his predecessor had to serve, and no longer, unless reappointed.

Sec. 11. The style of all process shall be "The State of Indiana;" all prosecutions shall be carried on in the name and by the authority

of the State of Indiana; and all indictments shall coincide against the peace and dignity of the same.

SEC. 12. A competent number of Justices of the Peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office five years, if they shall so long behave well, whose powers and duties shall from time to time be regulated and defined by law.

ARTICLE VI

SECTION 1. In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who has resided in the State one year immediately preceding such election shall be entitled to vote in the county where he resides; except such as shall be enlisted in the armies of the United States or their allies.

SEC. 2. All elections shall be by ballot: *Provided*, That the General Assembly may, if they deem it more expedient, at their session in eighteen hundred and twenty-one change the mode so as to vote *viva voce*, after which time it shall remain unalterable.

SEC. 3. Electors shall in all cases, except treason, felony, or breach of the peace, be free from arrest in going to, during their attendance at, and in returning home from elections.

SEC. 4. The General Assembly shall have full power to exclude from electing, or being elected, any person convicted of any infamous crime.

SEC. 5. Nothing in this article shall be so construed as to prevent citizens of the United States who were actual residents at the time of adopting this Constitution, and who, by the existing laws of this Territory, are entitled to vote, or persons who have been absent from home on a visit or necessary business, from the privilege of electors.

ARTICLE VII

SECTION 1. The militia of the State of Indiana shall consist of all free, able-bodied male persons; negroes, mulattoes and Indians excepted, resident in the said State, between the ages of eighteen and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State; and shall be armed, equipped and trained as the General Assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty: *Provided*, Such person or persons shall pay an equivalent for such exemption; which equivalent shall be collected annually by a civil officer, and be hereafter fixed by law, and shall be equal, as near as may be, to the lowest fines assessed on those privates in the militia who may neglect or refuse to perform militia duty.

SEC. 3. Captains and subalterns shall be elected by those persons in their respective company districts who are subject to perform militia duty, and the Captain of each company shall appoint the non-commissioned officers to said company.

SEC. 4. Majors shall be elected by those persons within the bounds

of their respective battalion districts subject to perform militia duty; and Colonels shall be elected by those persons within the bounds of their respective regimental districts subject to perform militia duty.

Sec. 5. Brigadier-Generals shall be elected by the commissioned officers within the bounds of their respective brigades, and Major-Generals shall be elected by the commissioned officers within the bounds of their respective divisions.

Sec. 6. Troops and squadrons of cavalry and companies of artillery, riflemen, grenadiers or light infantry, may be formed in the said State in such manner as shall be prescribed by law: *Provided, however*, That every troop or squadron of cavalry, company of artillery, riflemen, grenadiers or light infantry which may hereafter be formed within the said State shall elect their own officers.

Sec. 7. The Governor shall appoint the Adjutant-General and Quartermaster-Generals, as also his *aides de camp*.

Sec. 8. Major-Generals shall appoint their *aides de camp* and all other division staff officers. Brigadier-Generals shall appoint their Brigade Majors and all other brigade staff officers, and Colonels shall appoint their regimental staff officers.

Sec. 9. All militia officers shall be commissioned by the Governor and shall hold their commissions during good behavior or until they arrive at the age of sixty years.

Sec. 10. The General Assembly shall, by law, fix the method of dividing the militia of the said State into divisions, brigades, regiments, battalions and companies, and shall also fix the rank of all staff officers.

Article VIII

Section 1. Every twelfth year, after this Constitution shall have taken effect, at the general election held for Governor there shall be a poll opened in which the qualified electors of the State shall express, by vote, whether they are in favor of calling a convention or not; and if there should be a majority of all the votes given at such election in favor of a convention, the Governor shall inform the next General Assembly thereof, whose duty it shall be to provide, by law, for the election of the members to the convention, the number thereof, and the time and place of their meeting, which law shall not be passed unless agreed to by a majority of all the members elected to both branches of the General Assembly, and which convention, when met, shall have it in their power to raise, amend or change the Constitution. But as the holding any part of the human creation in slavery or involuntary servitude can only originate in usurpation and tyranny, no alteration of this Constitution shall ever take place so as to introduce slavery or involuntary servitude in this State otherwise than for the punishment of crimes whereof the party shall have been duly convicted.

Article IX

Section 1. Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to this end, it shall be the duty of the General Assembly to provide, by law, for

the improvement of such lands as are or hereafter may be granted by the United States to this State for the use of schools, and to apply any funds which may be raised from such lands or from any other quarter to the accomplishment of the grand object for which they are or may be intended. But no lands granted for the use of schools or seminaries of learning shall be sold by authority of this State prior to the year 1820; and the moneys which may be raised out of the sale of any such lands, or otherwise obtained for the purposes aforesaid, shall be and remain a fund for the exclusive purpose of promoting the interest of literature and the sciences, and for the support of seminaries and public schools. The General Assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientifical and agricultural improvements, by allowing rewards and immunities for the promotion and improvement of arts, sciences, commerce, manufacture and natural history; and to countenance and encourage the principles of humanity, honesty, industry and morality.

Sec. 2. It shall be the duty of the General Assembly, as soon as circumstances will permit, to provide, by law, for a general system of education, ascending in a regular gradation from township schools to a State University, wherein tuition shall be gratis, and equally open to all.

Sec. 3. And for the promotion of such salutary end, the money which shall be paid, as an equivalent, by persons exempt from military duty, except in times of war, shall be exclusively, and in equal proportion, applied to the support of County Seminaries; also, all fines assessed for any breach of the penal laws, shall be applied to said seminaries in the County wherein they shall be assessed.

Sec. 4. It shall be the duty of the General Assembly, as soon as circumstances will permit, to form a penal code, founded on the principles of reformation, and not of vindictive justice. And, also, to provide one or more farms to be an asylum for those persons, who by reason of age, infirmity, or other misfortunes, may have a claim upon the aid and beneficence of society; on such principles, that such persons may therein find employment and every reasonable comfort, and lose by their usefulness, the degrading sense of dependence.

Sec. 5. The General Assembly, at the time they lay off a new county, shall cause at least ten per cent. to be reserved out of the proceeds of the sale of town lots in the seat of justice of such county, for the use of a public library for such county, and at the same session they shall incorporate a Library Company under such rules and regulations as will best secure its permanence and extend its benefits.

Article X

Section 1. There shall not be established or incorporated in this State, any bank or banking company, or monied institution for the purpose of issuing bills of credit, or bills payable to order or bearer: *Provided*, That nothing herein contained shall be so construed as to prevent the General Assembly from establishing a State Bank, and branches, not exceeding one branch for any three counties, and be established at such place within such counties as the Directors of the State Bank may select: *Provided*, There be subscribed, and paid in

specie, on the part of individuals, a sum equal to thirty thousand dollars: *Provided also*, That the bank at Vincennes, and the Farmers' and Mechanics' Bank of Indiana, at Madison, shall be considered as incorporated banks, according to the true tenor of the charters granted to said banks by the Legislature of the Indiana Territory: *Provided*, That nothing herein contained shall be so construed, as to prevent the General Assembly from adopting either of the aforesaid banks as the State Bank, and in case either of them shall be adopted as the State Bank, the other may become a branch under the rules and regulations hereinbefore prescribed.

Article XI

Section 1. Every person who shall be chosen or appointed to any office of trust or profit, under the authority of this State, shall, before entering on the duties of said office, take an oath or affirmation, before any person lawfully authorized to administer oaths, to support the Constitution of the United States, and the Constitution of this State, and also an oath of office.

Sec. 2. Treason against this State shall consist only in levying war against it, in adhering to its enemies, or giving them aid and comfort.

Sec. 3. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

Sec. 4. The manner of administering an oath, or affirmation, shall be such as is most consistent with the conscience of the deponent, and shall be esteemed the most solemn appeal to God.

Sec. 5. Every person shall be disqualified from serving as Governor, Lieutenant Governor, Senator, or Representative, for the term for which he shall have been elected, who shall have been convicted of having given, or offered any bribe, treat, or reward to procure his election.

Sec. 6. All officers shall reside within the State; and all district, county, or town officers, within their respective districts, counties or towns, (the trustees of the town of Clarksville excepted,) and shall keep their respective offices at such places therein, as may be directed by law; and all militia officers shall reside within the bounds of the division, brigade, regiment, battalion or company to which they may severally belong.

Sec. 7. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted, nor shall any indenture of any negro or mulatto, hereafter made and executed out of the bounds of this State be of any validity within the State.

Sec. 8. No Act of the General Assembly shall be in force until it shall have been published in print, unless in cases of emergency.

Sec. 9. All commissions shall be in the name, and by the authority of the State of Indiana; and sealed with the State seal, and signed by the Governor and attested by the Secretary of State.

Sec. 10. There shall be elected in each county a Recorder, who shall hold his office during the term of seven years, if he shall so long behave well: *Provided*, That nothing herein contained shall prevent the clerks of the Circuit Courts from holding the office of Recorder.

Sec. 11. Corydon, in Harrison County, shall be the seat of Government of the State of Indiana, until the year eighteen hundred and twenty-five, and until removed by law.

Sec. 12. The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles.

Sec. 13. No person shall hold more than one lucrative office at the same time, except as in this Constitution is expressly permitted.

Sec. 14. No person shall be appointed as a county officer, within any county, who shall not have been a citizen and an inhabitant therein one year next preceding his appointment, if the county shall have been so long erected, but if the county shall not have been so long erected, then within the limits of the county, or counties, out of which it shall have been taken.

Sec. 15. All town and township officers shall be appointed in such manner as shall be directed by law.

Sec. 16. The following officers of Government shall not be allowed greater annual salaries until the year eighteen hundred and nineteen, then as follows: The Governor, one thousand dollars; the Secretary of State, four hundred dollars; the Auditor of Public Accounts, four hundred dollars; the Treasurer, four hundred dollars; the Judges of the Supreme Court, eight hundred dollars each; the Presidents of the Circuit Courts, eight hundred dolars each: and the members of the General Assembly, not exceeding two dollars per day each, during their attendance on the same, and two dollars for every twenty-five miles they shall severally travel on the most usual route in going to and returning from the General Assembly; after which time their pay shall be regulated by law. But no law, passed to increase the pay of the members of the General Assembly, shall take effect until after the close of the session at which such law shall have been passed.

Sec. 17. In order that the boundaries of the State of Indiana may more certainly be known and established, it is hereby ordained and declared that the following shall be and forever remain the boundaries of the said State, to-wit: Bounded on the east by the meridian line which forms the western boundary of the State of Ohio, on the South by the Ohio River, from the mouth of the Great Miami River, to the mouth of the River Wabash; on the west by a line drawn along the middle of the Wabash River from its mouth to a point, where a due north line drawn from the town of Vincennes would last touch the northwestern shore of the said Wabash River; and from thence by a due north line until the same shall intersect an east and west line, drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by the said east and west line, until the same shall intersect the first mentioned meridian line, which forms the western boundary of the State of Ohio.

Article XII

Section 1. That no evils or inconveniences may arise from the change of a Territorial Government to a permanent State Government, it is declared by this Convention that all rights, suits, actions, prosecutions, recognizances, contracts and claims, both as it respects individuals and bodies corporate, shall continue as if no change had taken in this Government.

SEC. 2. All fines, penalties and forfeitures, due, and owing to the Territory of Indiana, or any county therein, shall enure to the use of the State or county. All bonds executed to the Governor, or any other officer in his official capacity in the Territory, shall pass over to the Governor or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The Governor, Secretary and Judges and all other officers, both civil and military, under the Territorial Government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this Constitution.

SEC. 4. All laws and parts of laws now in force in this Territory, not inconsistent with this Constitution, shall continue and remain in full force and effect until they expire or be repealed.

SEC. 5. The Governor shall use his private seal until a State seal be procured.

SEC. 6. The Governor, Secretary of State, Auditor of Public Accounts and Treasurer shall severally reside and keep all the public records, books and papers in any manner relating to their respective offices at the seat of government: *Provided, notwithstanding*, That nothing herein contained shall be so construed as to affect the residence of the Governor for the space of six months, and until buildings suitable for his accommodation shall be procured at the expense of the State.

SEC. 7. All suits, pleas, plaints and other proceedings now depending in any Court of Record or Justice's Court shall be prosecuted to final judgment and execution, and all appeals, writs of error, certiorari, injunction or other proceedings whatsoever, shall progress and be carried on in the respective court or courts, in the same manner as is now provided by law, and all proceedings had therein in as full and complete a manner as if this Constitution were not adopted. And appeals and writs of error may be taken from the Circuit Court and General Court now established in the Indiana Territory to the Supreme Court in such manner as shall be provided for by law.

SEC. 8. The President of this convention shall issue writs of election, directed to the several Sheriffs of the several counties, requiring them to cause an election to be held for a Governor, Lieutenant-Governor, a Representative to the Congress of the United States, Members of the General Assembly, Sheriffs and Coroners, at the respective election districts in each county, on the first Monday in August next; which election shall be conducted in the [manner] prescribed by the existing election laws of the Indiana Territory; and the said Governor, Lieutenant-Governor, Members of the General Assembly, Sheriffs and Coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this Constitution, and until their successor or successors are qualified, and no longer.

SEC. 9. Until the first enumeration shall be made, as directed by this Constitution, the county of Wayne shall be entitled to one Senator and three Representatives; the county of Franklin, one Senator and three Representatives; the county of of Dearborn, one Senator and two Representatives; the county of Switzerland, one Repre-

sentative, and the counties of Jefferson and Switzerland, one Senator, and the county of Jefferson, two Representatives; the county of Clark, one Senator and three Representatives; the county of Harrison, one Senator and three Representatives; the counties of Washington, Orange and Jackson, one Senator, and the county of Washington, two Representatives; the counties of Orange and Jackson, one Representative each; the county of Knox, one Senator and three Representatives; the county of Gibson, one Senator and two Representatives; the counties of Posey, Warrick and Perry, one Senator, and each of the aforesaid counties of Posey, Warrick and Perry, one Representative.

SEC. 10. All books, records, documents, warrants and papers appertaining and belonging to the office of the Territorial Treasurer of the Indiana Territory, and all moneys therein, and all papers and documents in the office of the Secretary of said Territory, shall be disposed of as the General Assembly of this State may direct.

SEC. 11. All suits, actions, pleas, plaints, prosecutions and causes whatsoever, and all records, books, papers and documents now in the General Court, may be transferred to the Supreme Court established by this Constitution. And all causes, suits, actions, pleas, plaints and prosecutions whatsoever now existing or pending in the Circuit Courts of this Territory, or which may be therein at the change of government, and all records, books, papers and documents relating to the said suits or filed in the said courts may be transferred over to the Circuit Courts established by this Constitution, under such rules and regulations as the General Assembly may direct.

Done in convention, at Corydon, on the twenty-ninth day of June, in the year of our Lord eighteen hundred and sixteen, and of the Independence of the United States the fortieth.

In witness whereof, We have hereunto subscribed our names.

JONATHAN JENNINGS,
President of the Convention and Delegate from the County of Clark.

WILLIAM HENDRICKS, *Secretary.*

CONSTITUTION OF INDIANA—1851 *

PREAMBLE

To the end that justice be established, public order maintained, and liberty perpetuated: We, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this Constitution.

ARTICLE I

BILL OF RIGHTS

SECTION 1. We declare that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that

* Verified from "The Constitutions of 1816 and 1851 of the State of Indiana and Amendments. Claude Matthews, Secretary of State. By Authority. Indianapolis: Wm. B. Burford, Contractor for State Printing and Binding. 1891."

among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well being. For the advancement of these ends, the people have at all times an indefeasible right to alter and reform their government.

SEC. 2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

SEC. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No preference shall be given, by law, to any creed, religious society or mode of worship; and no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent.

SEC. 5. No religious test shall be required as a qualification for any office of trust or profit.

SEC. 6. No money shall be drawn from the treasury for the benefit of any religious or theological institution.

SEC. 7. No person shall be rendered incompetent as a witness, in consequence of his opinion on matters of religion.

SEC. 8. The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

SEC. 9. No law shall be passed restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right every person shall be responsible.

SEC. 10. In all prosecutions for libel, the truth of the matters alleged to be libelous may be given in justification.

SEC. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable search or seizure shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 12. All courts shall be open; and every man, for injury done to him, in his person, property or reputation, shall have remedy by due course of law. Justice shall be administered freely and without purchase; completely, and without denial; speedily, and without delay.

SEC. 13. In all criminal prosecutions the accused shall have the right to a public trial, by an impartial jury in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 14. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

SEC. 15. No person arrested, or confined in jail, shall be treated with unnecessary rigor.

SEC. 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishment shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

SEC. 17. Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident, or the presumption strong.

SEC. 18. The penal code shall be founded on the principles of reformation, and not of vindictive justice.

SEC. 19. In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

SEC. 20. In all civil cases the right of trial by jury shall remain inviolate.

SEC. 21. No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

SEC. 22. The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

SEC. 23. The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 24. No *ex post facto* law, or law impairing the obligation of contract, shall ever be passed.

SEC. 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution.

SEC. 26. The operation of the laws shall never be suspended except by the authority of the General Assembly.

SEC. 27. The privileges of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion, and then only if the public safety demand it.

SEC. 28. Treason against the State shall consist only in levying war against it, and giving aid and comfort to its enemies.

SEC. 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

SEC. 30. No conviction shall work corruption of blood or forfeiture of estate.

SEC. 31. No law shall restrain any of the inhabitants of the State from assembling together, in a peaceable manner, to consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

SEC. 32. The people shall have a right to bear arms for the defense of themselves and the State.

SEC. 33. The military shall be kept in strict subordination to the civil power.

SEC. 34. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

SEC. 35. The General Assembly shall not grant any title of nobility, nor confer hereditary distinctions.

SEC. 36. Emigration from the State shall not be prohibited.

SEC. 37. There shall be neither slavery nor involuntary servitude, within the State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted. No indenture of any negro or mulatto, made or executed out of the bounds of the State, shall be valid within the State.

ARTICLE II

SUFFRAGE AND ELECTION

SECTION 1. All elections shall be free and equal.

SEC. 2. In all elections not otherwise provided for by this Constitution, every male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election; and every male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six month, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside, if he shall have been duly registered according to law.

SEC. 3. No soldier, seaman or marine, in the army or navy of the United States, or their allies, shall be deemed to have acquired a residence in this State in consequence of having been stationed within the same; nor shall any such soldier, seaman or marine, have the right to vote.

SEC. 4. No person shall be deemed to have lost his residence in the State by reason of his absence either on business of the State or of the United States.

SEC. 5. [Stricken out by constitutional amendment of March 24, 1881. See p. 1095. Note.]

SEC. 6. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

SEC. 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 8. The General Assembly shall have power to deprive of the right of suffrage, and to render ineligible any person convicted of an infamous crime.

SEC. 9. No person holding a lucrative office or appointment, under the United States, or under this State, shall be eligible to a seat in the General Assembly; nor shall any person hold more than one lucrative office at the same time, except as in this Constitution expressly permitted: *Provided*, That offices in the militia, to which there is attached no annual salary, and the office of Deputy Postmaster,

where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative; *And provided, also*, That counties containing less than one thousand polls may confer the office of Clerk, Recorder and Auditor, or any two of said offices, upon the same person.

SEC. 10. No person who may hereafter be a collector or holder of public moneys, shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

SEC. 11. In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 12. In all cases, except treason, felony and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same.

SEC. 13. All elections by the people shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be *viva voce*.

SEC. 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons entitled to vote.

ARTICLE III

DISTRIBUTION OF POWERS

SECTION 1. The powers of the Government are divided into three separate departments: the Legislative, the Executive (including the Administrative), and the Judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another except as in this Constitution expressly provided.

ARTICLE IV

LEGISLATIVE

SECTION 1. The Legislative authority of the State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. The style of every law shall be, "Be it enacted by the General Assembly of the State of Indiana;" and no law shall be enacted except by bill.

SEC. 2. The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts into which the State may, from time to time, be divided.

SEC. 3. Senators shall be elected for the term of four years, and Representatives for the term of two years, from the day next after their general election: *Provided, however*, That the Senators elect,

at the second meeting of the General Assembly under this Constitution, shall be divided, by lot, into two equal classes, as nearly as may be; and the seats of Senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of Senators, they shall be so annexed by lot, to the one or the other of the two classes, as to keep them as nearly equal as practicable.

Sec. 4. The General Assembly shall, at its second session after the adoption of this Constitution, and every sixth year thereafter, cause an enumeration to be made of all the male inhabitants over the age of twenty-one years.

Sec. 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of male inhabitants, above twenty-one years of age, in each: *Provided*, That the first and second elections of members of the General Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly before the adoption of this Constitution.

Sec. 6. A Senatorial or Representative district, where more than one county shall constitute a district, shall be composed of contiguous counties; and no county, for Senatorial apportionment, shall ever be divided.

Sec. 7. No person shall be a Senator or a Representative, who, at the time of his election, is not a citizen of the United States; nor any one who has not been, for two years next preceding his election, an inhabitant of this State, and for one year next preceding his election, an inhabitant of the county or district whence he may be chosen. Senators shall be at least twenty-five, and Representatives at least twenty-one years of age.

Sec. 8. Senators and Representatives, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the General Assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either House, a member shall not be questioned in any other place.

Sec. 9. The sessions of the General Assembly shall be held biennially, at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the Governor, the public welfare shall require it, he may, at any time, by proclamation, call a special session.

Sec. 10. Each House, when assembled, shall choose its own officers (the President of the Senate excepted), judge the elections, qualifications and returns of its own members, determine its rules of proceeding, and sit upon its own adjournment. But neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.

SEC. 11. Two-thirds of each House shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either House fail to effect an organization within the first five days thereafter, the members of the House so failing shall be entitled to no compensation from the end of the said five days, until an organization shall have been effected.

SEC. 12. Each House shall keep a journal of its proceedings, and publish the same. The yeas and nays, on any question, shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 13. The doors of each House, and of Committees of the Whole, shall be kept open, except in such cases as, in the opinion of either House, may require secrecy.

SEC. 14. Either House may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

SEC. 15. Either House, during its session, may punish, by imprisonment, any person not a member, who shall have been guilty of disrespect to the House, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not, at any time, exceed twenty-four hours.

SEC. 16. Each House shall have all powers necessary for a branch of the legislative department of a free and independent State.

SEC. 17. Bills may originate in either House, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the House of Representatives.

SEC. 18. Every bill shall be read by sections, on three several days in each House; unless, in case of emergency, two-thirds of the House where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 19. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 20. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 21. No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.

SEC. 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;
Granting divorces;
Changing the names of persons;
For laying out, opening and working on, highways, and for the election or appointment of supervisors;
Vacating roads, town plats, streets, alleys and public squares;
Summoning and impanneling grand and petit juries, and providing for their compensation;
Regulating county and township business;
Regulating the election of county and township officers, and their compensation;
For the assessment and collection of taxes for State, county, township or road purposes;
Providing for supporting common schools, and for the preservation of school funds;
In relation to fees or salaries; except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required;
In relation to interest on money;
Providing for opening and conducting elections of State, county or township officers, and designating the places of voting;
Providing for the sale of real estate belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees.

Sec. 23. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

Sec. 24. Provisions may be made by general law, for bringing suits against the State, as to all liabilities originating after the adoption of this Constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

Sec. 25. A majority of all the members elected to each House shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses.

Sec. 26. Any member of either House shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

Sec. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

Sec. 28. No act shall take effect until the same shall have been published and circulated in the several counties of this State, by authority, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

Sec. 29. The members of the General Assembly shall receive for their services a compensation, to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the General Assembly, except the first under this Constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

Sec. 30. No Senator or Representative shall, during the term for which he may have been elected, be eligible to any office, the election

to which is vested in the General Assembly, nor shall he be appointed to any civil office of profit, which shall have been created, or the emoluments of which shall have been increased, during such term; but this latter provision shall not be construed to apply to any office elective by the people.

Article V

EXECUTIVE

Section 1. The executive powers of the State shall be vested in a Governor. He shall hold his office during four years, and shall not be eligible more than four years in any period of eight years.

Sec. 2. There shall be a Lieutenant Governor, who shall hold his office during four years.

Sec. 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing members of the General Assembly.

Sec. 4. In voting for Governor and Lieutenant Governor the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

Sec. 5. The persons, respectively, having the highest number of votes for Governor and Lieutenant Governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor or Lieutenant Governor, as the case may be.

Sec. 6. Contested elections for Governor or Lieutenant Governor shall be determined by the General Assembly, in such manner as may be prescribed by law.

Sec. 7. No person shall be eligible to the office of Governor or Lieutenant Governor, who shall not have been five years a citizen of the United States, and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices who shall not have attained the age of thirty years.

Sec. 8. No member of Congress, or person holding any office under the United States, or under this State, shall fill the office of Governor or Lieutenant Governor.

Sec. 9. The official term of the Governor or Lieutenant Governor shall commence on the second Monday of January, in the year one thousand eight hundred and fifty-three; and on the same day every fourth year thereafter.

Sec. 10. In case of the removal of the Governor from office, or of his death, resignation or inability to discharge the duties of the office, the same shall devolve on the Lieutenant Governor; and the General Assembly shall, by law, provide for the case of removal from office, death, resignation, or inability, both of the Governor and Lieutenant Governor, declaring what officer then shall act as Governor; and such officer shall act accordingly until the disability be removed or a Governor be elected.

Sec. 11. Whenever the Lieutenant Governor shall act as Governor, or shall be unable to attend as President of the Senate, the Senate shall elect one of its own members as President for the occasion.

Sec. 12. The Governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, or to suppress insurrection, or to repel invasion.

Sec. 13. He shall, from time to time, give to the General Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

Sec. 14. Every bill which shall have passed the General Assembly shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the House in which it shall have originated, which House shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other House, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that House, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly.

Sec. 15. The Governor shall transact all necessary business with the officers of Government, and may require any information in writing from the officers of the administrative department, upon any subject relating to the duties of their respective offices.

Sec. 16. He shall take care that the laws be faithfully executed.

Sec. 17. He shall have the power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the General Assembly at its next meeting, each case of reprieve, commutation or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however*, That the General Assembly, may, by law, constitute a council, to be composed of officers of State, without whose advice and consent the Governor shall not have power to grant pardons, in any case, except such as may, by law, be left to his sole power.

Sec. 18. When, during a recess of the General Assembly, a vacancy shall happen in any office, the appointment to which is vested in the

General Assembly, or when, at any time, a vacancy shall have occurred in any other State office, or in the office of Judge of any court, the Governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

SEC. 19. He shall issue writs of election to fill such vacancies as may have occurred in the General Assembly.

SEC. 20. Should the seat of Government become dangerous from disease or a common enemy, he may convene the General Assembly at any other place.

SEC. 21. The Lieutenant Governor shall, by virtue of his office, be President of the Senate: have a right, when in Committee of the Whole, to join in debate, and to vote on all subjects, and, whenever the Senate shall be equally divided, he shall give the casting vote.

SEC. 22. The Governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 23. The Lieutenant Governor, while he shall act as President of the Senate, shall receive for his services the same compensation as the Speaker of the House of Representatives; and any person acting as Governor shall receive the compensation attached to the office of Governor.

SEC. 24. Neither the Governor nor Lieutenant Governor shall be eligible to any other office during the term for which he shall have been elected.

ARTICLE VI

ADMINISTRATIVE

SECTION 1. There shall be elected by the voters of the State, a Secretary, an Auditor, and a Treasurer of State, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either of said offices more than four years in any period of six years.

SEC. 2. There shall be elected in each county, by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor. The Clerk, Auditor and Recorder shall continue in office four years; and no person shall be eligible to the office of Clerk, Recorder or Auditor more than eight years in any period of twelve years. The Treasurer, Sheriff, Coroner, and Surveyor, shall continue in office two years; and no person shall be eligible to the office of Treasurer or Sheriff more than four years in any period of six years.

SEC. 3. Such other county and township officers as may be necessary, shall be elected or appointed, in such manner as may be prescribed by law.

SEC. 4. No person shall be elected or appointed as a county officer, who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

Sec. 5. The Governor, and the Secretary, Auditor and Treasurer of State, shall, severally, reside and keep the public records, books and papers, in any manner relating to the respective offices, at the seat of government.

Sec. 6. All county, township, and town officers shall reside within their respective counties, townships, and towns, and shall keep their respective offices at such places therein, and perform such duties as may be directed by law.

Sec. 7. All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the House of Representatives, to be tried by the Senate, or by a joint resolution of the General Assembly; two-thirds of the members elected to each branch voting, in either case, therefor.

Sec. 8. All State, county, township, and town officers may be impeached, or removed from office, in such manner as may be prescribed by law.

Sec. 9. Vacancies in county, township, and town offices shall be filled in such manner as may be prescribed by law.

Sec. 10. The General Assembly may confer upon the Boards doing county business in the several counties, powers of a local administrative character.

Article VII

JUDICIAL

Section 1. The Judicial power of the State shall be vested in a Supreme Court, in Circuit Courts, and in such other courts as the General Assembly may establish.

Sec. 2. The Supreme Court shall consist of not less than three, nor more than five Judges; a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

Sec. 3. The State shall be divided into as many districts as there are Judges of the Supreme Court, and such districts shall be formed of contiguous territory, as nearly equal in population as, without dividing a county, the same can be made. One of said Judges shall be elected from each district, and reside therein; but said Judge shall be elected by the electors of the State at large.

Sec. 4. The Supreme Court shall have jurisdiction, co-extensive with the limits of the State, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the General Assembly may confer.

Sec. 5. The Supreme Court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the Court thereon.

Sec. 6. The General Assembly shall provide by law, for the speedy publication of the decisions of the Supreme Court, made under this Constitution, but no judge shall be allowed to report such decision.

Sec. 7. There shall be elected by the voters of the State, a Clerk of the Supreme Court, who shall hold his office four years, and whose duties shall be prescribed by law.

Sec. 8. The Circuit Courts shall each consist of one judge, and shall have such civil and criminal jurisdiction as may be prescribed by law.

SEC. 9. The State shall, from time to time, be divided into judicial circuits, and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

SEC. 10. The General Assembly may provide, by law, that the judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any judge, from sickness or other cause, to hold the courts in his circuit, provision may be made, by law, for holding such courts.

SEC. 11. There shall be elected, in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for two years.

SEC. 12. Any judge or prosecuting attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law.

SEC. 13. The judges of the Supreme Court and Circuit Courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.

SEC. 14. A competent number of justices of the peace shall be elected by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

SEC. 15. All judicial officers shall be conservators of the peace in their respective jurisdictions.

SEC. 16. No person elected to any judicial office shall, during the terms for which he shall have been elected, be eligible to any office of trust or profit under the State, other than a judicial office.

SEC. 17. The General Assembly may modify or abolish the Grand Jury system.

SEC. 18. All criminal prosecutions shall be carried on in the name, and by the authority of the State; and the style of all processes shall be, "The State of Indiana."

SEC. 19. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunal or court.

SEC. 20. The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment of three commissioners whose duty it shall be to revise, simplify and abridge the rules, practice, pleadings and forms of the courts of justice. And they shall provide for abolishing the distinct forms of action at law now in use; and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the General Assembly may, also, make it the duty of said commissioners to reduce into a systematic code the general statute law of the State; and said commissioners shall report the result of their labors to the General Assembly, with such recommendations and suggestions, as to the abridgement and amendment, as to said commissioners may seem necessary or proper. Provision shall be made by law for

filling vacancies, regulating the tenure of office and the compensation of said commissioners.

Sec. 21. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

Article VIII

EDUCATION

Section 1. Knowledge and learning generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge and equally open to all.

Sec. 2. The common school fund shall consist of the congressional township fund, and the lands belonging thereto;

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana:

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries: from the fines assessed for breaches of the penal laws of the State: and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance;

All lands that have been or may hereafter be granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the Swamp Lands granted to the State of Indiana by the act of Congress, of the 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed by the General Assembly for Common School purposes.

Sec. 3. The principal of the Common School Fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever.

Sec. 4. The General Assembly shall invest, in some safe and profitable manner, all such portions of the Common School Fund as have not heretofore been entrusted to the several counties; and shall make provisions, by law, for the distribution, among the several counties, of the interest thereof.

Sec. 5. If any county shall fail to demand its proportion of such interest for Common School purposes, the same shall be reinvested for the benefit of such county.

Sec. 6. The several counties shall be held liable for the preservation of so much of the said fund as may be entrusted to them, and for the payment of the annual interest thereon.

Sec. 7. All trust funds held by the State shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

Sec. 8. The General Assembly shall provide for the election, by the voters of the State, of a State Superintendent of Public Instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

Article IX

STATE INSTITUTIONS

Section 1. It shall be the duty of the General Assembly to provide by law for the support of Institutions for the Education of the Deaf and Dumb, and of the Blind; and, also, for the treatment of the Insane.

Sec. 2. The General Assembly shall provide Houses of Refuge for the correction and reformation of juvenile offenders.

Sec. 3. The County Boards shall have power to provide farms as an asylum for those persons who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society.

Article X

FINANCE

Section 1. The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.

Sec. 2. All the revenues derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may, at any time, remain in the Treasury derived from taxation for general State purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than bank bonds, shall be annually applied, under the direction of the General Assembly, to the payment of the principal of the public debt.

Sec. 3. No money shall be drawn from the Treasury but in pursuance of appropriations made by law.

Sec. 4. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the General Assembly.

Sec. 5. No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for public defense.

Sec. 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the General Assembly ever, on behalf of the State, assume the debts of any county, city, town or township, nor of any corporation whatever.

SEC. 7. No law or resolution shall ever be passed by the General Assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act passed January 29, 1847, which by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned; and no such certificates of stocks shall ever be paid by this State.

[NOTE.—Agreed to by a majority of the members elected to each of the two houses of the General Assembly, Regular Session of 1871, and referred to the General Assembly to be chosen at the next general election. Agreed to by a majority of the members elected to each house of the General Assembly, Special Session of 1872. Submitted to the electors of the State by an act approved January 28, 1873. Ratified by a majority of the electors, at an election held on the 18th day of February, 1873. Declared a part of the Constitution by proclamation of Thomas A. Hendricks, Governor, dated March 7, 1873.]

ARTICLE XI

CORPORATIONS

SECTION 1. The General Assembly shall not have power to establish, or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, of bills payable to order or bearer, except under the conditions prescribed in this Constitution.

SEC. 2. No bank shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

SEC. 3. If the General Assembly shall enact a general banking law, such law shall provide for the registry and countersigning, by an officer of State, of all paper credit designed to be circulated as money; and ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver, shall be required; which collateral security shall be under the control of the proper officer or officers of the State.

SEC. 4. The General Assembly may also charter a bank with branches, without collateral security, as required in the preceding section.

SEC. 5. If the General Assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities, upon all paper credit issued as money.

SEC. 6. The stockholders in every bank, or banking company, shall be individually responsible to an amount over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

SEC. 7. All bills or notes issued as money, shall be, at all times, redeemable in gold or silver; and no law shall be passed, sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

SEC. 8. Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

SEC. 9. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 10. Every bank, or banking company, shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 11. The General Assembly is not prohibited from investing the trust funds in a bank with branches; but in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

SEC. 12. The State shall not be a stockholder in any bank, after the expiration of the present bank charter; nor shall the credit of the State ever be given, or loaned, in aid of any person, association, or corporation, nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 13. Corporations, other than banking, shall not be created by special act, but may be formed under general laws.

SEC. 14. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

ARTICLE XII

MILITIA

SECTION 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law.

SEC. 2. The Governor shall appoint the Adjutant, Quartermaster and Commissary Generals.

SEC. 3. All militia officers shall be commissioned by the Governor, and shall hold their offices not longer than six years.

SEC. 4. The General Assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions and companies, and fix the rank of all staff officers.

SEC. 5. The militia may be divided into classes of sedentary and active militia in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty; but such person shall pay an equivalent for exemption; the amount to be prescribed by law.

ARTICLE XIII [a]

NEGROES AND MULATTOES

SECTION 1. No negro or mulatto shall come into, or settle in the State, after the adoption of this constitution.

SEC. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

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[a] ARTICLE XIII (before amendment of 1881)

SEC. 3. All fines which may be collected for violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this constitution, and may be willing to emigrate.

SEC. 4. The general assembly shall pass laws to carry out the provisions of this article.

POLITICAL AND MUNICIPAL CORPORATIONS

SECTION 1. No political or municipal corporation in this State shall ever become indebted, in any manner or for any purpose, to any amount, in the aggregate exceeding two per centum on the value of taxable property within such corporation, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, and all bonds or obligations, in excess of such amount, given by such corporations, shall be void: *Provided*, That in time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligations necessary for the public protection and defense, to such an amount as may be requested in such petition.

[The original Article 13 is stricken out and the amendment of March 24, 1881, inserted in lieu thereof.]

ARTICLE XIV

BOUNDARIES

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded on the east by the meridian line which forms the western boundary of the State of Ohio; on the south by the Ohio River, from the mouth of the Great Miami River to the mouth of the Wabash River; on the west, by a line drawn along the middle of the Wabash River, from its mouth to a point where a due north line, drawn from the town of Vincennes, would last touch the northwestern shore of said Wabash River; and thence by a due north line, until the same shall intersect an east and west line, drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north, by said east and west line, until the same shall intersect the first-mentioned meridian line, which forms the western boundary of the State of Ohio.

SEC. 2. The State of Indiana shall possess jurisdiction, and sovereignty co-extensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction, in civil and criminal cases, with the State of Kentucky on the Ohio River, and with the State of Illinois on the Wabash River, so far as said rivers form the common boundary between this State and said States respectively.

ARTICLE XV

MISCELLANEOUS

SECTION 1. All officers whose appointment is not otherwise provided for in this Constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.

SEC. 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years.

SEC. 3. Whenever it is provided in this Constitution, or in any law which may be hereafter passed, that any officer, other than a member of the General Assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

SEC. 4. Every person elected or appointed to any office under this Constitution shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of this State and of the United States, and also an oath of office.

SEC. 5. There shall be a seal of the State, kept by the Governor for official purposes, which shall be called the Seal of the State of Indiana.

SEC. 6. All commissions shall issue in the name of the State, shall be signed by the Governor, sealed by the State Seal, and attested by the Secretary of State.

SEC. 7. No county shall be reduced to an area less than four hundred square miles; nor shall any county under that area be further reduced.

SEC. 8. No lottery shall be authorized, nor shall the sale of lottery tickets be allowed.

SEC. 9. The following grounds owned by the State in Indianapolis, namely: the State House Square, the Governor's Circle, and so much of out-lot numbered one hundred and forty-seven as lies north of the arm of the Central Canal, shall not be sold or leased.

SEC. 10. It shall be the duty of the General Assembly to provide for the permanent enclosure and preservation of the Tippecanoe Battle Ground.

ARTICLE XVI

AMENDMENTS

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals and referred to the General Assembly to the chosen at the next general election; and, if in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State, and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while

such an amendment or amendments which shall have been agreed upon by one General Assembly shall be awaiting the action of the succeeding General Assembly, or of the electors, no additional amendment or amendments shall be proposed.

Schedule

This Constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the Constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

First. All laws now in force, and not inconsistent with this Constitution, shall remain in force until they shall expire or be repealed.

Second. All indictments, prosecutions, suits, pleas, plaints and other proceedings pending in any of the Courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari and injunctions shall be carried on in the several Courts, in the same manner as is now provided by law.

Third. All fines, penalties and forfeitures, due or accruing to the State, or to any county therein, shall inure to the State, or to such county in the manner prescribed by law. All bonds executed to the State, or to any officer, in his official capacity, shall remain in force, and inure to the use of those concerned.

Fourth. All acts of incorporation for municipal purposes shall continue in force under this Constitution, until such time as the General Assembly shall, in its discretion, modify or repeal the same.

Fifth. The Governor, at the expiration of the present official term, shall continue to act until his successor shall have been sworn into office.

Sixth. There shall be a session of the General Assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

Seventh. Senators now in office and holding over, under the existing Constitution, and such as may be elected at the next general election, and the Representatives then elected, shall continue in office until the first general election under this Constitution.

Eighth. The first general election under this Constitution shall be held in the year one thousand eight hundred and fifty-two.

Ninth. The first election for Governor, Lieutenant Governor, Judges of the Supreme Court and Circuit Courts, Clerk of the Supreme Court, Prosecuting Attorney, Secretary, Auditor, and Treasurer of State, and State Superintendent of Public Instruction, under this Constitution, shall be held at the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this Constitution shall go into effect, shall continue in their respective offices until their successors shall have been elected and qualified.

Tenth. Every person elected by popular vote, and now in any office which is continued by this Constitution, and every person who shall be so elected to any such office before the taking effect of this Constitution (except as in this Constitution otherwise provided), shall con-

tinue in office until the term for which such person has been, or may be, elected, shall expire: *Provided*, That no such person shall continue in office after the taking effect of this Constitution, for a longer period than the term of such office in this Constitution prescribed.

Eleventh. On the taking effect of this Constitution, all officers hereby continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this Constitution.

Twelfth. All vacancies that may occur in existing offices prior to the first general election under this Constitution, shall be filled in the manner now prescribed by law.

Thirteenth. At the time of submitting this Constitution to the electors for their approval or disapproval, the article numbered thirteen, in relation to negroes and mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and Colonization of Negroes and Mulattoes," "Aye," or "No." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this Constitution, otherwise it shall be void and form no part thereof.

Fourteenth. No article or section of this Constitution shall be submitted as a distinct proposition to a vote of the electors otherwise than as herein provided.

Fifteenth. Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form, of the contiguous territory of said counties, a new county, it shall be the duty of those interested in the organization of such new county, to lay off the same by proper metes and bounds of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties, at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the General Assembly to organize the same out of the territory thus designated.

Sixteenth. The General Assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same, and the funds belonging to said town said be applied according to the intention of the grantor.

Done in Convention, at Indianapolis, the tenth day of February, in the year of our Lord, one thousand eight hundred and fifty-one; and of the independence of the United States, the seventy-fifth.

GEORGE WHITFIELD CARR,
President and Delegate from the County of Lawrence.

Attest:

WM. H. ENGLISH,
Principal Secretary.
GEO. L. SITES,
HERMAN G. BARKWELL,
ROBERT M. EVANS,
Assistant Secretaries.

ADDENDA

The original sections stricken out by the amendments herein inserted read as follows:

Article II

SUFFRAGE AND ELECTION

Section 2. In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election; and every white male, of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.

Sec. 5. No negro or mulatto shall have the right of suffrage.

Sec. 14. All general elections shall be held on the second Tuesday in October.

Article IV

LEGISLATIVE

Section 4. The General Assembly shall, at its second session after the adoption of this Constitution, and every six years thereafter, cause an enumeration to be made of all the *white* male inhabitants over the age of twenty-one years.

Sec. 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of *white* male inhabitants, above twenty-one years of age, in each: *Provided*, That the first and second elections of members of the General Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly, before the adoption of this Constitution.

Sec. 22. In relation to fees and salaries:

Article VII

JUDICIAL

Section 1. The judicial power of the State shall be vested in a Supreme Court, in Circuit Courts, and in such inferior courts as the General Assembly may establish.

Article XIII

NEGROES AND MULATTOES [a]

Section 1. No negro or mulatto shall come into, or settle in, the State, after the adoption of this Constitution.

Sec. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

Sec. 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this Constitution, and may be willing to emigrate.

Sec. 4. The General Assembly shall pass laws to carry out the provisions of this article.

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[a] Art. II, Sec. 5 (p. 1076), reads: No negro or mulatto shall have the right of suffrage.

INDIAN TERRITORY

For Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
For District of Louisiana, 1804 (Louisiana, p. 1364).
For Territory of Louisiana, 1805 (Louisiana, p. 1371).
For Territory of Missouri, 1812 (Missouri, p. 2139).
For Territory of Arkansas, 1819 (Arkansas, p. 261).

ACT FOR THE GOVERNMENT OF THE INDIAN COUNTRY—1834 [a]

[Twenty-third Congress, First Session]

An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the territory of Arkansas, and, also, that part of the United States east of the Mississippi river, and not within any state to which the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be Indian country.

SEC. 2. *And be it further enacted*, That no person shall be permitted to trade with any of the Indians (in the Indian country) without a license therefor from a superintendent of Indian affairs, or Indian agent, or sub-agent, which license shall be issued for a term not exceeding two years for the tribes east of the Mississippi, and not exceeding three years for the tribes west of that river. And the person applying for such license shall give bond in a penal sum not exceeding five thousand dollars, with one or more sureties, to be approved by the person issuing the same, conditioned that such person will faithfully observe all the laws and regulations made for the government of trade and intercourse with the Indian tribes, and in no respect violate the same. And the superintendent of the district shall

[a] For other statutes of an organic nature relating to the Indian Country and Indian Territory, see an act to appoint an agent for the Indians west of Missouri, act of May 18, 1824; to remove Creek Indians west of the Mississippi River, May 20, 1826; to extend jurisdiction of Arkansas courts over the Indian country, June 17, 1844; proclamations of President warning all persons from settling in, April 26, 1879, February 12, 1880; to establish a United States court in, March 1, 1889; to reorganize courts, March 1, 1895; to fix qualifications of voters in Cherokee Outlet, October 17, 1893; to reorganize the courts, December 21, 1893; to appoint commission to district the Territory, and to provide for elections, July 31, 1894; to declare the duty of the United States to establish a government which will rectify inequalities, June 10, 1896; to establish laws for the protection of the people of, provide for government within the Indian nations, and control the ownership of lands, June 28, 1898.

have power to revoke, and cancel the same, whenever the person licensed shall, in his opinion, have transgressed any of the laws or regulations provided for the government of trade and intercourse with the Indian tribes, or that it would be improper to permit him to remain in the Indian country. And no trade with the said tribes shall be carried on within their boundary, except at certain suitable and convenient places, to be designated from time to time by the superintendents, agents, and sub-agents, and to be inserted in the license. And it shall be the duty of the persons granting or revoking such licenses, forthwith to report the same to the commissioner of Indian affairs, for his approval or disapproval.

Sec. 3. *And be it further enacted*, That any superintendent or agent may refuse an application for a license to trade, if he is satisfied that the applicant is a person of bad character, or that it would be improper to permit him to reside in the Indian country, or if a license, previously granted to such applicant, has been revoked, or a forfeiture of his bond decreed. But an appeal may be had from the agent or the superintendent, to the commissioner of Indian affairs; and the President of the United States shall be authorized, whenever in his opinion the public interest may require the same, to prohibit the introduction of goods, or of any particular article, into the country belonging to any Indian tribe, and to direct all licenses to trade with such tribe to be revoked, and all applications therefor to be rejected; and no trader to any other tribe shall, so long as such prohibition may continue, trade with any Indians of or for the tribe against which such prohibition is issued.

Sec. 4. *And be it further enacted*, That any person other than an Indian who shall attempt to reside in the Indian country as a trader, or to introduce goods, or to trade therein without such license, shall forfeit all merchandise offered for sale to the Indians, or found in his possession, and shall moreover forfeit and pay the sum of five hundred dollars.

Sec. 5. *And be it further enacted*, That no license to trade with the Indians shall be granted to any persons except citizens of the United States: *Provided*, That the President shall be authorized to allow the employment of foreign boatmen and interpreters, under such regulations as he may prescribe.

Sec. 6. *And be it further enacted*, That if a foreigner shall go into the Indian country without a passport from the War Department, the superintendent, agent, or sub-agent, of Indian affairs, or from the officer of the United States commanding the nearest military post on the frontiers, or shall remain intentionally therein after the expiration of such passport, he shall forfeit and pay the sum of one thousand dollars; and such passport shall express the object of such person, the time he is allowed to remain, and the route he is to travel.

Sec. 7. *And be it further enacted*, That if any person other than an Indian shall, within the Indian country, purchase or receive of any Indian, in the way of barter, trade, or pledge, a gun, trap, or other article commonly used in hunting, any instrument of husbandry or cooking utensils of the kind commonly obtained by the Indians in their intercourse with the white people, or any other article of clothing, except skins or furs, he shall forfeit and pay the sum of fifty dollars.

SEC. 8. *And be it further enacted*, That if any person, other than an Indian, shall, within the limits of any tribe with whom the United States shall have existing treaties, hunt, or trap, or take and destroy, any peltries or game, except for subsistence in the Indian country, such person shall forfeit the sum of five hundred dollars, and forfeit all the traps, guns, and ammunition in his possession, used or procured to be used for that purpose, and peltries so taken.

SEC. 9. *And be it further enacted*, That if any person shall drive, or otherwise convey any stock of horses, mules, or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of such tribe, such person shall forfeit the sum of one dollar for each animal of such stock.

SEC. 10. *And be it further enacted*, That the superintendent of Indian affairs, and Indian agents and sub-agents, shall have authority to remove from the Indian country all persons found therein contrary to law; and the President of the United States is authorized to direct the military force to be employed in such removal.

SEC. 11. *And be it further enacted*, That if any person shall make a settlement on any lands belonging, secured, or granted by treaty with the United States to any Indian tribe, or shall survey or shall attempt to survey such lands, or designate any of the boundaries by marking trees, or otherwise, such offender shall forfeit and pay the sum of one thousand dollars. And it shall, moreover, be lawful for the President of the United States to take such measures, and to employ such military force, as he may judge necessary to remove from the lands as aforesaid any such person as aforesaid.

SEC. 12. *And be it further enacted*, That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the constitution. And if any person, not employed under the authority of the United States, shall attempt to negotiate such treaty or convention, directly or indirectly, to treat with any such nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, such person shall forfeit and pay one thousand dollars: *Provided, nevertheless*, That it shall be lawful for the agent or agents of any state who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claim to lands within such state, which shall be extinguished by treaty.

SEC. 13. *And be it further enacted*, That if any citizen or other person residing within the United States or the territory thereof, shall send any talk, speech, message, or letter to any Indian nation, tribe, chief, or individual, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquility of the United States, he shall forfeit and pay the sum of two thousand dollars.

SEC. 14. *And be it further enacted*, That if any citizen, or other person, shall carry or deliver any such talk, message, speech, or letter, to or from any Indian nation, tribe, chief, or individual, from or to any person or persons whatsoever, residing within the United States, or from or to any subject, citizen, or agent of any foreign

power or state, knowing the contents thereof, he shall forfeit and pay the sum of one thousand dollars.

Sec. 15. *And be it further enacted*, That if any citizen or other person, residing or living among the Indians, or elsewhere within the territory of the United States, shall carry on a correspondence, by letter or otherwise, with any foreign nation or power, with an intent to induce such foreign nation or power to excite any Indian nation, tribe, chief, or individual, to war against the United States, or to the violation of any existing treaty; or in case any citizen or other person shall alienate, or attempt to alienate, the confidence of any Indian or Indians from the government of the United States, he shall forfeit the sum of one thousand dollars.

Sec. 16. *And be it further enacted*, That where, in the commission, by a white person, of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured or destroyed. And if such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the treasury of the United States: *Provided*, That no such Indian shall be entitled to any payment, out of the treasury of the United States, for any such property, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence: *And provided, also*, That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the treasury, as aforesaid.

Sec. 17. *And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any state or territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the commissioner of Indian affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and, in the mean time, in respect to the property so taken, stolen or destroyed, the United States guaranty, to the party so injured, an eventual indemnification: *Provided*, That, if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That, unless such claim

shall be presented within three years after the commission of the injury, the same shall be barred. And if the nation or tribe to which such Indian may belong, receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and, if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended.

SEC. 18. *And be it further enacted*, That the superintendents agents, and sub-agents, within their respective districts, be, and are hereby, authorized and empowered to take depositions of witnesses touching any depredations, within the purview of the two preceding sections of this act, and to administer an oath to the deponents.

SEC. 19. *And be it further enacted*, That it shall be the duty of the superintendents, agents, and sub-agents, to endeavour to procure the arrest and trial of all Indians accused of committing any crime, offence, or misdemeanor, and all other persons who may have committed crimes or offences within any state or territory, and have fled into the Indian country, either by demanding the same of the chiefs of the proper tribe, or by such other means as the President may authorize; and the President may direct the military force of the United States to be employed in the apprehension of such Indians, and also, in preventing or terminating hostilities between any of the Indian tribes.

SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, or give, barter, or dispose of, any spiritous liquor or wine to an Indian, (in the Indian country,) such person shall forfeit and pay the sum of five hundred dollars; and if any person shall introduce, or attempt to introduce, any spiritous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department, such person shall forfeit and pay a sum not exceeding three hundred dollars; and if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect, or is informed, that any white person or Indian is about to introduce, or has introduced, any spiritous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, Indian agent, or sub-agent, or military officer, agreeably to such regulations as may be established by the President of the United States, to cause the boats, stores, packages, and places of deposit of such person to be searched, and if any such spirituous liquor or wine is found, the goods, boats, packages, and peltries of such persons shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the use of the informer, and the other half to the use of the United States; and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person, in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, excepting military supplies as mentioned in this section.

SEC. 21. *And be it further enacted*, That if any person whatever shall, within the limits of the Indian country, set up or continue any

distillery for manufacturing ardent spirits, he shall forfeit and pay a penalty of one thousand dollars; and it shall be the duty of the superintendent of Indian affairs, Indian agent, or sub-agent, within the limits of whose agency the same shall be set up or continued, forthwith to destroy and break up the same; and it shall be lawful to employ the military force of the United States in executing that duty.

SEC. 22. *And be it further enacted*, That in all trials about the right of property in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person, whenever the Indian shall make out a presumption of title in himself from the fact of previous possession or ownership.

SEC. 23. *And be it further enacted*, That it shall be lawful for the military force of the United States to be employed in such manner and under such regulations as the President may direct, in the apprehension of every person who shall or may be found in the Indian country, in violation of any of the provisions of this act, and him immediately to convey from said Indian country, in the nearest convenient and safe route, to the civil authority of the territory or judicial district in which said person shall be found, to be proceeded against in due course of law; and also, in the examination and seizure of stores, packages, and boats, authorized by the twentieth section of this act, and in preventing the introduction of persons and property into the Indian country contrary to law; *Provided*, That no person apprehended by military force as aforesaid, shall be detained longer than five days after the arrest and before removal. And all officers and soldiers who may have any such person or persons in custody shall treat them with all the humanity which the circumstances will possibly permit; and every officer or soldier who shall be guilty of maltreating any such person while in custody, shall suffer such punishment as a court-martial shall direct.

SEC. 24. *And be it further enacted*, That for the sole purpose of carrying this act into effect, all that part of the Indian country west of the Mississippi river, that is bounded north by the north line of lands assigned to the Osage tribe of Indians, produced east to the state of Missouri; west, by the Mexican possessions; south, by Red river; and east, by the west line of the territory of Arkansas and the state of Missouri, shall be, and hereby is, annexed to the territory of Arkansas; and that for the purpose aforesaid, the residue of the Indian country west of the said Mississippi river shall be, and hereby is, annexed to the judicial district of Missouri; and for the purpose aforesaid, the several portions of Indian country east of the said Mississippi river, shall be, and are hereby, severally annexed to the territory in which they are situated.

SEC. 25. *And be it further enacted*, That so much of the laws of the United States as provides for the punishment of crimes committed within any place within the sole and exclusive jurisdiction of the United States, shall be in force in the Indian country; *Provided*, The same shall not extend to crimes committed by one Indian against the person or property of another Indian.

SEC. 26. *And be it further enacted*, That if any person who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of

the territories, such offenders may be there apprehended, and transported to the territory or judicial district having jurisdiction of the same.

SEC. 27. *And be it further enacted*, That all penalties which shall accrue under this act, shall be sued for and recovered in an action of debt, in the name of the United States, before any court having jurisdiction of the same, (in any state or territory in which the defendant shall be arrested or found,) the one half to the use of the informer, and the other half to the use of the United States, except when the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

SEC. 28. *And be it further enacted*, That when goods or other property shall be seized for any violation of this act, it shall be lawful for the person prosecuting on behalf of the United States to proceed against such goods, or other property, in the manner directed to be observed in the case of goods, wares, or merchandise brought into the United States in violation of the revenue laws.

SEC. 29. *And be it further enacted*, That the following acts and parts of acts shall be, and the same are hereby, repealed, namely: An act to make provision relative to rations for Indians, and to their visits to the seat of government, approved May thirteen, eighteen hundred; an act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved May thirty, eighteen hundred and two; an act supplementary to the act passed thirtieth March, eighteen hundred and two, to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved April twenty-nine, eighteen hundred and sixteen; an act for the punishment of crimes and offences committed within the Indian boundaries, approved March three, eighteen hundred and seventeen; the first and second sections of the act directing the manner of appointing Indian agents, and continuing the "Act establishing trading-houses with the Indian tribes," approved April sixteen, eighteen hundred and eighteen; an act fixing the compensation of Indian agents and factors, approved April twenty, eighteen hundred and eighteen; an act supplementary to the act entitled "An act to provide for the prompt settlement of public accounts," approved February twenty-four, eighteen hundred and nineteen; the eighth section of the act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, approved March three, eighteen hundred and nineteen; the second section of the act to continue in force for a further time the act entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes," (a) approved March three, eighteen hundred and nineteen; an act to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved thirtieth of March, eighteen hundred and two, approved May six, eighteen hundred and twenty-two; an act providing for the appointment of an agent for the Osage Indians west of the state of Missouri and territory of Arkansas, and for other purposes, approved May eighteen, eighteen hundred and twenty-four; the third, fourth, and fifth sections of "An act to enable the President to hold treaties with certain Indian tribes, and for other purposes," approved May

twenty-five, eighteen hundred and twenty-four: the second section of the "Act to aid certain Indians of the Creek nation in their removal to the west of the Mississippi," approved May twenty, eighteen hundred and twenty-six; and an act to authorize the appointment of a subagent to the Winnebago Indians on Rock river, approved February twenty-five, eighteen hundred and thirty-one: *Provided, however*, That such repeal shall not effect (affect) any rights acquired, or punishments, penalties, or forfeitures incurred, under either of the acts or parts of acts, nor impair or affect the intercourse act of eighteen hundred and two, so far as the same relates to or concerns Indian tribes residing east of the Mississippi: *And provided also*, That such repeal shall not be construed to revive any acts or parts of acts repealed by either of the acts or sections herein described.

SEC. 30. *And be it further enacted*, That until a western territory shall be established, the two agents for the Western territory, as provided in the act for the organization of the Indian department, this day approved by the President, shall execute the duties of agents for such tribes as may be directed by the President of the United States, and it shall be competent for the President to assign to one of the said agents, in addition to his proper duties, the duties of superintendent for such district of country or for such tribes as the President may think fit. And the powers of the superintendent at St. Louis, over such district or tribes as may be assigned to such acting superintendent, shall cease; *Provided*, That no additional compensation shall be allowed for such services.

Approved, June 30, 1834.

ESTABLISHMENT OF A COURT IN INDIAN TERRITORY—1889

[FIFTIETH CONGRESS, SECOND SESSION]

An act to establish a United States Court in the Indian Territory, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a United States court is hereby established, whose jurisdiction shall extend over the Indian Territory, bounded as follows, to wit: North by the State of Kansas, east by the States of Missouri and Arkansas, south by the State of Texas, and west by the State of Texas and the Territory of New Mexico; and a judge shall be appointed for said court by the President of the United States, by and with the advice and consent of the Senate, who shall hold his office for a term of four years, and until his successor is appointed and qualified, and receive a salary of three thousand five hundred dollars per annum, to be paid from the Treasury of the United States in like manner as the salaries of judges of the United States district courts.

SEC. 2. That there shall be appointed by the President, by and with the advice and consent of the Senate, an attorney and marshal for said court, who shall continue in office for four years, and until their successors be duly appointed and qualified, and they shall discharge the like duties and receive the same fees and salary as now received by the United States attorney and marshal for the western district of

Arkansas. The said marshal may appoint one or more deputies, who shall have the same powers, perform the like duties, and be removable in like manner as other deputy United States marshals; and said marshal shall give bond, with two or more sureties, to be approved by the judge of said court, in the sum of ten thousand dollars, conditioned as by law required in regard to the bonds of other United States marshals.

SEC. 3. That a clerk of said court shall be appointed by the judge thereof, who shall reside and keep his office at the place of holding said court. Said clerk shall perform the same duties, be subject to the same liabilities, and shall receive the same fees and compensation as the clerk of the United States court of the western district of Arkansas; and before entering upon his duties he shall give bond in the sum of ten thousand dollars with two or more sureties, to be approved by the judge of said court, conditioned that he will discharge his duties as required by law.

SEC. 4. That the judge appointed under the provision of this act shall take the same oath, required by law to be taken by the judges of the district courts, of the United States; and the oath, when taken as in such cases provided, shall be duly certified by the officer before whom the same shall have been taken to the clerk of the court herein established, to be by him recorded in the records of said court. The clerk, marshal, and deputy marshals shall take before the judge of said court the oath required by law of the clerk, marshal, and deputy marshals of United States district courts, the same to be entered of record in said court as provided by law in like cases.

SEC. 5. That the court hereby established shall have exclusive original jurisdiction over all offenses against the laws of the United States committed within the Indian Territory as in this act defined, not punishable by death or by imprisonment at hard labor.

SEC. 6. That the court hereby established shall have jurisdiction in all civil cases between citizens of the United States who are residents of the Indian Territory, or between citizens of the United States, or of any State or Territory therein, and any citizen of or person or persons residing or found in the Indian Territory, and when the value of the thing in controversy, or damages or money claimed shall amount to one hundred dollars or more: *Provided*, That nothing herein contained shall be so construed as to give the court jurisdiction over controversies between persons of Indian blood only: *And provided further*, That all laws having the effect to prevent the Cherokee, Choctaw, Creek, Chickasaw and Seminole Nations, or either of them, from lawfully entering into leases or contracts for mining coal for a period not exceeding ten years, are hereby repealed; and said court shall have jurisdiction over all controversies arising out of said mining leases or contracts and of all questions of mining rights or invasions thereof where the amount involved exceeds the sum of one hundred dollars.

That the provisions of chapter eighteen, title thirteen, of the Revised Statutes of the United States shall govern such court, so far as applicable: *Provided*, That the practice, pleadings, and forms of proceeding in civil causes shall conform, as near as may be, to the practice, pleadings, and forms of proceeding existing at the time in like causes in the courts of record of the State of Arkansas, any rule of

court to the contrary notwithstanding; and the plaintiff shall be entitled to like remedies by attachment or other process against the property of the defendant, and for like causes, as now provided by the laws of said State.

The final judgment or decree of the court hereby established, in cases where the value of the matter in dispute, exclusive of costs, to be ascertained by the oath of either party or of other competent witnesses, exceeds one thousand dollars may be reviewed and reversed or affirmed in the Supreme Court of the United States upon writ of error or appeal, in the same manner and under the same regulations as the final judgments and decrees of a circuit court.

SEC. 7. That two terms of said court shall be held each year at Muscogee, in said Territory, on the first Monday in April and September, and such special sessions as may be necessary for the dispatch of the business in said court at such times as the judge may deem expedient; and he may adjourn such special sessions to any other time previous to a regular term; and the marshal shall procure suitable rooms for the use and occupation of the court hereby created.

SEC. 8. That all proceedings in said courts shall be had in the English language; and bona-fide male residents of the Indian Territory over twenty-one years of age, and understanding the English language sufficiently to comprehend the proceedings of the court, shall be competent to serve as jurors in said court but shall be subject to exemptions and challenges as provided by law in regard to jurors in the district court for the western district of Arkansas.

SEC. 9. That the jurors shall be selected as follows: The court at its regular term shall select three jury commissioners, possessing the qualifications prescribed for jurymen, and who have no suits in court requiring the intervention of a jury; and the same persons shall not act as jury commissioners more than once in the same year. The judge shall administer to each commissioner the following oath:

"You do swear to discharge faithfully the duties required of you as jury commissioner; that you will not knowingly select any one as juryman whom you believe unfit and not qualified; that you will not make known to any one the name of any juryman selected by you and reported on your list to the court until after the commencement of the next term of this court; that you will not, directly or indirectly, converse with any one selected by you as a juryman concerning the merits of any cause or procedure to be tried at the next term of this court; so help you God."

SEC. 10. That the jury commissioners, after they have been appointed and sworn, shall retire to a jury room, or some other apartment designated by the judge, and be kept free from the intrusion of any person, and shall not separate without leave of the court until they have completed the duties required of them; that they shall select from the bona fide male residents of the Territory such number of qualified persons as the court shall designate, not less than sixty, free from all legal exception, of fair character and approved integrity, of sound judgment and reasonable information, to serve as petit jurors at the next term of court; shall write the names of such persons on separate pieces of paper, of as near the same size and appearance as may be, and fold the same so that the names thereon may not be seen. The names so written and folded shall be then depos-

ited in a box, and after they shall be shaken and well mixed, the commissioners shall draw from said box the names of thirty seven persons, one by one, and record the same as drawn, which record shall be certified and signed by the commissioners, and indorsed "List of petit jurors."

SEC. 11. That the said commissioners shall then proceed to draw in like manner twelve other names, which shall be recorded in like manner on another paper, which shall be certified and signed by the commissioners, and indorsed "List of alternate petit jurors." The two lists shall be inclosed and sealed so that the contents can not be seen, and indorsed "List of petit jurors," designating for what term of the court they are to serve, which indorsement shall be signed by the commissioners, and the same shall be delivered to the judge in open court; and the judge shall deliver the lists to the clerk in open court, and administer to the clerk and his deputies the following oath:

"You do swear that you will not open the jury-lists now delivered to you; that you will not, directly or indirectly, converse with any one selected as a petit juror concerning any suit pending and for trial in this court at the next term, unless by leave of the court; so help you God"

SEC. 12. That within thirty days before the next term, and not before, the clerk shall open the envelopes and make a fair copy of the lists of petit jurors and alternate petit jurors, and give the same to the marshal, who shall, at least fifteen days prior to the first day of the next term, summon the persons named as petit jurors and alternate petit jurors to attend on the first day of said term as petit jurors, by giving personal notice to each, or by leaving a written notice at the juror's place of residence with some person over ten years of age and there residing.

That the marshal shall return said lists with a statement in writing of the date and manner in which each juror was summoned; and if any juror or alternate legally summoned shall fail to attend he may be attached and fined or committed as for contempt.

That if there shall not be a sufficient number of competent petit jurors and alternates present, and not excused, to form a petit jury, the court may compel the attendance of such absentees or order other competent persons to be summoned to complete the juries.

SEC. 13. That if for any cause the jury commissioners shall not appoint or shall fail to select a petit jury as provided, or the panels selected be set aside, or the jury list returned in court shall be lost or destroyed, the court shall order the marshal to summon a petit jury of the number hereinbefore designated, who shall be sworn to perform the duties of petit jurors as if they had been regularly selected; and this provision shall also apply in the formation of petit juries for the first term of the court. The want of qualification of any person selected as juror under section ten of this act shall not necessarily operate as cause of challenge to the whole panel.

SEC. 14. That the fees of the jurors and witnesses before said court herein created shall be the same as provided in the district court of the United States for the western district of Arkansas.

SEC. 15. That in all criminal trials had in said court, in which a jury shall be demanded, and in which the defendant or defendants shall be citizens of the United States, none but citizens of the United States shall be competent jurors.

SEC. 16. That the judge of the court herein established shall have the same authority to issue writs of habeas corpus, injunctions, mandamus, and other remedial process, as exists in the circuit court of the United States.

SEC. 17. That the Chickasaw Nation and the portion of the Choctaw Nation within the following boundaries, to wit: Beginning on Red River at the southeast corner of the Choctaw Nation; thence north with the boundary-line between the said Choctaw Nation and the State of Arkansas to a point where Big Creek, a tributary of the Black Fork of the Kimishi River, crosses the said boundary-line; thence westerly with Big Creek and the said Black Fork to the junction of the said Black Fork with Buffalo Creek; thence northwesterly with said Buffalo Creek to a point where the same is crossed by the old military road from Fort Smith, Arkansas, to Boggy Depot, in the Choctaw Nation; thence southwesterly with the said road to where the same crosses Perryville Creek; thence northwesterly up said creek to where the same is crossed by the Missouri, Kansas and Texas Railway track; thence northerly up the center of the main track of the said road to the South Canadian River; thence up the center of the main channel of the said river to the western boundary-line of the Chickasaw Nation, the same being the northwest corner of the said nation; thence south on the boundary-line between the said nation and the reservation of the Wichita Indians; thence continuing south with the boundary-line between the said Chickasaw Nation and the reservations of the Kiowa, Comanche, and Apache Indians to Red River; thence down said river to the place of beginning; and all that portion of the Indian Territory not annexed to the district of Kansas by the act approved January sixth, eighteen hundred and eighty-three, and not set apart and occupied by the five civilized tribes, shall, from and after the passage of this act, be annexed to and constitute a part of the eastern judicial district of the State of Texas, for judicial purposes.

SEC. 18. That the counties of Lamar, Fannin, Red River, and Delta of the State of Texas, and all that part of the Indian Territory attached to the said eastern judicial district of the State of Texas by the provisions of this act, shall constitute a division of the eastern judicial district of Texas; and terms of the circuit and district courts of the United States for the said eastern district of the State of Texas shall be held twice in each year at the city of Paris on the third Mondays in April and the second Mondays in October; and the United States courts herein provided to be held at Paris shall have exclusive original jurisdiction of all offenses committed against the laws of the United States within the limits of that portion of the Indian Territory attached to the eastern judicial district of the State of Texas by the provisions of this act, of which jurisdiction is not given by this act to the court herein established in the Indian Territory; and all civil process, issued against persons resident in the said counties of Lamar, Fannin, Red River, and Delta, cognizable before the United States courts shall be made returnable to the courts, respectively, to be held at the city of Paris, Texas:

And all prosecutions for offenses committed in either of said last-mentioned counties shall be tried in the division of said eastern district of which said counties form a part: *Provided*, That no process

issued or prosecution commenced or suit instituted before the passage of this act shall be in any way affected by the provisions thereof.

SEC. 19. That the judge of the eastern judicial district of the State of Texas shall appoint a clerk of said court, who shall reside at the city of Paris, in the county of Lamar.

SEC. 20. That every person who shall, in the Indian Territory, willfully and maliciously place any obstruction, by stones, logs, or any other thing, on the track of any railroad, or shall tear up or remove, burn, or destroy any part of any such railroad, or the works thereof, with intent to obstruct the passage of any engine, car, or cars thereon, or to throw them off the track, shall be deemed guilty of malicious mischief, and, on conviction thereof, shall be sentenced to imprisonment at hard labor for any time not more than twenty years:

Provided, That if any passenger, employee, or other person shall be killed, either directly or indirectly, because of said obstruction, tearing up, removing, burning, or destroying, the person causing the same shall be deemed guilty of murder, and, upon conviction thereof, shall be punished accordingly.

SEC. 21. That any person aforesaid who shall, in the Indian Territory, willfully and intentionally destroy, injure or obstruct any telegraph or telephone line, or any of the property or materials thereof, shall be deemed guilty of malicious mischief, and, on conviction thereof, shall be fined in any sum not more than five hundred dollars and imprisoned for any time not more than one year.

SEC. 22. That every person aforesaid who shall, in the Indian Territory, maliciously or contemptuously disturb or disquiet any congregation or private family assembled in any church or other place for religious worship, or persons assembled for the transaction of church business, by profanely swearing or using indecent gestures, threatening language, or committing any violence of any kind to or upon any person so assembled, or by using any language or acting in any manner that is calculated to disgust, insult, or interrupt said congregation, shall, upon conviction thereof, be sentenced to imprisonment for any time not exceeding sixty days, or to a fine not exceeding one hundred dollars, or both such fine and imprisonment.

SEC. 23. That every person aforesaid who shall, in the Indian country, feloniously, willfully, and with malice aforethought assault any person with intent to rob, and his counselors, aiders, and abettors, shall, on conviction thereof, be imprisoned at hard labor for a time not less than one nor more than fifteen years.

SEC. 24. That every person who shall, in the Indian Territory, knowingly mark, brand, or alter the mark or brand of any animal the subject of larceny, the property of another, or who shall knowingly administer any poison to or maliciously expose any poisonous substance with the intent that the same shall be taken by any of the aforesaid animals, or shall willfully and maliciously, by any means whatsoever, kill, maim, or wound any of the aforesaid animals, shall be deemed guilty of malicious mischief, and, on conviction thereof, shall be sentenced to imprisonment for a period of not more than six months, or a fine of not more than two hundred dollars, or both such fine and imprisonment; and in case the animal shall have been killed or injured by said malicious mischief, the jury trying the case shall assess the amount of damages which the owner of the animal

shall have sustained by reason thereof, and, in addition to the sentence aforesaid, the court shall render judgment in favor of the party injured for threefold the amount of the damages so assessed by the jury, for which said amount execution may issue against the defendant and his property.

SEC. 25. That if any person, in the Indian country, assault another with a deadly weapon, instrument, or other thing, with an intent to inflict upon the person of another a bodily injury where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant disposition, he shall be adjudged guilty of a misdemeanor, and, on conviction shall be fined in any sum not less than fifty nor exceeding one thousand dollars and imprisoned not exceeding one year.

SEC. 26. That if any person shall maliciously and willfully set on fire any woods, marshes, or prairies, in the Indian Territory, with the intent to destroy the fences, improvements, or property of another, such person shall be fined in any sum not exceeding five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court.

SEC. 27. That sections five, twenty-three, twenty-four, and twenty-five of this act shall not be so construed as to apply to offenses committed by one Indian upon the person or property of another Indian.

SEC. 28. That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Approved, March 1, 1889.

ENABLING ACT FOR OKLAHOMA AND INDIAN TERRITORY—1906

(See Oklahoma, p. 2960)

IOWA—1834

For organic acts issued before 1838 relating to the land now included within Iowa see in this work:

Treaty with France ceding Louisiana, 1803 (Louisiana, p. 1359).
District of Louisiana, 1804 (Louisiana, p. 1364).
Territorial Government of Louisiana, 1805 (Louisiana, p. 1371).
Territorial Government of Missouri, 1812 (Missouri, p. 2139).
Territorial Government of Wisconsin, 1836 (Wisconsin, p. 4065).

TERRITORIAL GOVERNMENT OF MICHIGAN—1834

[TWENTY-THIRD CONGRESS, FIRST SESSION]

An Act to attach the territory of the United States west of the Mississippi River, and north of the state of Missouri, to the territory of Michigan

Be it enacted, &c., That all that part of the territory of the United States bounded on the east by the Mississippi River, on the south by the State of Missouri, and a line drawn due west from the northwest corner of said State to the Missouri River; on the southwest and west by the Missouri River and the White Earth River, falling into the same; and on the north by the northern boundary of the United States, shall be, and hereby is, for the purpose of temporary government, attached to, and made a part of, the Territory of Michigan, and the inhabitants therein shall be entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan Territory.

Approved, June 28, 1834.

TERRITORIAL GOVERNMENT OF IOWA—1838[a]

[TWENTY-FIFTH CONGRESS, SECOND SESSION]

An Act to divide the Territory of Wisconsin and to establish the Territorial Government of Iowa

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of July next, all that part of the present Territory

[a] This was the first special provision made for the government of that portion of the Territory of Missouri not included within the boundaries of the State of Missouri, as defined by the act of Congress approved March 6, 1820.

For other statutes of an organic nature relating to Iowa subsequent to 1838 see the act to regulate the governor's veto power, March 3, 1839; to define the eastern boundary, March 3, 1839; to empower the legislative assembly to provide for appointment or election of certain officers and judges, and to provide for election of Territorial delegate, March 3, 1839; to regulate duties of judges, August 11, 1842; to authorize holding of extra session of legislature, April 30, 1844; to authorize legislature to regulate apportionment of representatives, and to provide for popular election of justices of the peace and militia officers, June 15, 1844; to supplement act for the admission of Florida and Iowa into the union, March 3, 1845.

of Wisconsin, which lies west of the Mississippi River, and west of a line drawn due north from the headwaters or sources of the Mississippi to the territorial line, shall, for the purposes of temporary government, be and constitute a separate territorial government by the name of Iowa, and that from and after the said third day of July next, the present territorial government of Wisconsin shall extend only to that part of the present Territory of Wisconsin which lies east of the Mississippi River. And after the said third day of July next, all power and authority of the government of Wisconsin in and over the Territory hereby constituted shall cease: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now appertaining to any Indians within the said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to impair the obligations of any treaty now existing between the United States and such Indians, or to impair or anywise to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, or law, or otherwise, which it would have been competent to the Government to make, if this act had never been passed: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the Territory hereby established into one or more other Territories, in such manner and at such times as Congress shall, in its discretion, deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over the said Territory of Iowa shall be vested in a governor, who shall hold his office for three years, unless sooner removed by the President of the United States. The governor shall reside within the said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve of all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of the said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws, and one copy of the executive proceedings, on or before the first Monday in December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and

perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. An apportionment shall be made as nearly equal as practicable, among the several counties, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the said members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected. Previous to the first election, the governor of the Territory shall cause the census or enumeration of the inhabitants of the several counties in the Territory to be taken, and made by the sheriffs of the said counties, respectively, unless the same shall have been taken within three months previous to the third day of July next, and returns thereof made by said sheriffs to the governor. The first election shall be held at such time and place, and be conducted in such manner, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts are entitled under this act. The number of persons authorized to be elected having the greatest number of votes in each of the said counties or districts for the council, shall be declared by the said governor to be duly elected to the said council; and the person or persons having the greatest number of votes for the house of representatives, equal to the number to which each county may be entitled, shall also be declared by the governor to be duly elected: *Provided*, The governor shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day as he shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the annual commencement of the session of the said legislative assembly; but no session in any year shall exceed the term of seventy-five days.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States, above the age of twenty-one years, who shall have been an inhabitant of said Territory at the time of its organization, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters at all subsequent elections shall be such as shall be determined by the legislative assembly: *Provided*, That the right of suffrage shall be exercised only by citizens of the United States.

SEC. 6. *And be it further enacted*, That the legislative power of

the Territory shall extend to all rightful subjects of legislation; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws of the governor and legislative assembly shall be submitted to, and if disapproved by the Congress of the United States, the same shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township officers, and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts, shall be elected by the people, in such manner as is now prescribed by the laws of the Territory of Wisconsin, or as may, after the first election, be provided by the governor and legislative assembly of Iowa Territory. The governor shall nominate, and by and with the advice and consent of the legislative council, shall appoint all judicial officers, justices of the peace, sheriffs, and the militia officers, except those of the staff, and all civil officers not herein provided for. Vacancies occurring in the recess of the council shall be filled by appointments from the governor, which shall expire at the end of the next session of the legislative assembly; but the said governor may appoint, in the first instance, the aforesaid officers, who shall hold their offices until the end of the next session of the said legislative assembly.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office created, or the salary and emoluments of which shall have been increased, whilst he was a member, during the term for which he shall have been elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, or any of its officers, except as a militia officer, shall be a member of the said council or house of representatives, or shall hold any office under the government of the said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of the said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice, and two associate judges, any two of whom shall be a quorum, and who shall hold a term at the seat of government of the said Territory annually, and they shall hold their offices during the term of four years. The said Territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts, by one of the judges of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointment, respectively, reside in the districts which shall be assigned to them. The juridiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be as limited by law: *Provided, however*, That justices of the peace shall not have jurisdiction of any matter of controversy, when the title or boundaries of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars. And the said supreme and district courts, respectively, shall possess a chancery as well as common-law jurisdiction. Each district court shall appoint its clerk, who shall keep his office at the place where the court may be held, and the said

clerks shall also be registers in chancery; and any vacancy in said office of clerk happening in the vacation of said court, may be filled by the judge of said district, which appointment shall continue until the next term of said court. And writs of error, bills of exception, and appeals in chancery causes, shall be allowed in all cases, from the final decisions of the said district courts to the supreme court under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court may appoint its own clerk, and every clerk shall hold his office at the pleasure of the court by which he shall have been appointed. And writs of error and appeals from the final decision of the said supreme court shall be allowed and taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars. And each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States. And the first six days of every term of the said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws. And writs of error and appeals from the final decisions of the said courts, in all such cases, shall be made to the supreme court of the Territory, in the same manner as in other cases. The said clerks shall receive in all such cases the same fees which the clerk of the district courts of Wisconsin Territory now receives for similar services.

SEC. 10. *And be it further enacted*, That there shall be an attorney for the said Territory appointed, who shall continue in office four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Wisconsin. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Wisconsin; and shall, in addition, be paid the sum of two hundred dollars annually, as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate judges, attorney, and marshal, shall be nominated, and by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation, before some judge or justice of the peace, in the existing Territory of Wisconsin, duly commissioned and qualified to administer an oath or affirmation, [or] before the Chief Justice, or some associate justice of the Supreme Court of the United States, to support the constitution of the United States, and for the faithful discharge of the duties of their respective offices,

which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken, and such certificate shall be received and recorded by the said Secretary among the executive proceedings. And, afterwards, the chief justice and associate judges, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid: and, afterwards, the like oath or affirmation, shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The said chief justice and associate judges shall each receive an annual salary of fifteen hundred dollars. The secretary shall receive an annual salary of twelve hundred dollars. The said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day, during their attendance at the sessions thereof; and three dollars each for every twenty miles' travel, in going to and returning from the said sessions, estimated according to the nearest usually-travelled route. There shall be appropriated, annually, the sum of three hundred and fifty dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States, for the manner in which the aforesaid sum shall have been expended.

Sec. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants, and the existing laws of the Territory of Wisconsin shall be extended over said Territory, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed, by the governor and legislative assembly of the said Territory of Iowa; and further, the laws of the United States are hereby extended over, and shall be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

Sec. 13. *And be it further enacted*, That the legislative assembly of the Territory of Iowa shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said session, or as soon thereafter as may by them be deemed expedient, the said governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory, at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And the sum of twenty thousand dollars, out

of any money in the treasury not otherwise appropriated, is hereby granted to the said Territory of Iowa, which shall be applied by the governor and legislative assembly thereof to defray the expenses of erecting public buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been granted to the delegates from the several Territories of the United States to the said House of Representatives. The first election shall be held at such time and place or places, and be conducted in such manner, as the governor shall appoint and direct. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given to the person so elected.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, and all indictments and informations, which shall be undetermined on the third day of July next, in the district courts of Wisconsin Territory, west of the Mississippi River, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the said counties.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other executive and judicial officers, who shall be in office on the third day of July next, in that portion of the present Territory of Wisconsin which will then, by this act, become the Territory of Iowa, shall be, and are hereby, authorized and required to continue to exercise and perform the duties of their respective offices, as officers of the Territory of Iowa, temporarily and until they, or others, shall be duly appointed to fill their places by the territorial government of Iowa, in the manner herein directed: *Provided*, That no officer shall hold or continue in office, by virtue of this provision, over twelve months from the said third day of July next.

SEC. 17. *And be it further enacted*, That all causes which shall have been or may be removed from the courts held by the present Territory of Wisconsin, in the counties west of the Mississippi River, by appeal or otherwise, into the supreme court of the Territory of Wisconsin, and which shall be undetermined therein on the third day of July next, shall be certified by the clerk of the said supreme court, and transferred to the supreme court of said Territory of Iowa, there to be proceeded in to final determination, in the same manner that they might have been in the said supreme court of the Territory of Wisconsin.

SEC. 18. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to be expended, by and under the direction of the governor of said Territory of Iowa, in the purchase of a library, to be kept at the seat of government, for the accommodation of the governor, legislative assembly, judges, secretary, marshal, and attorney of said Territory, and such other persons as the governor and legislative assembly shall direct.

SEC. 19. *And be it further enacted*, That, from and after the day named in this act for the organization of the Territory of Iowa, the term of the members of the council and house of representatives of

the Territory of Wisconsin shall be deemed to have expired, and an entirely new organization of the council and house of representatives of the Territory of Wisconsin, as constituted by this act, shall take place, as follows: As soon as practicable after the passage of this act, the governor of the Territory of Wisconsin shall apportion the thirteen members of the council and twenty-six members of the house of representatives among the several counties or districts comprised within said Territory, according to their population, as nearly as may be. (Indians excepted.) The first election shall be held at such time as the governor shall appoint and direct; and shall be conducted, and returns thereof made, in all respects, according to the provisions of the laws of said Territory, and the governor shall declare the persons having the greatest number of votes to be elected, and shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. The persons thus elected shall meet at Madison, the seat of government, on such day as he shall appoint, but thereafter the apportioning of the representation in the several counties to the council and house of representatives according to population, the day of their election, and the day for the commencement of the session of the legislative assembly, shall be prescribed by law.

SEC. 20. *And be it further enacted*, That temporarily, and until otherwise provided by law of the legislative assembly, the governor of the Territory of Iowa may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times for holding courts in the several counties in each district, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges and alter the times of holding the courts, or any of them.

Approved, June 12, 1838.

ENABLING ACT FOR IOWA—1845[a]

(See Florida, pp. 662–664)

SUPPLEMENTARY ENABLING ACT FOR IOWA—1845

[TWENTY-EIGHTH CONGRESS, SECOND SESSION]

An Act supplemental to the act for the admission of the States of Iowa and Florida into the Union

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United States, which are not locally inapplicable, shall have the

[a] One act of Congress, approved March 3, 1845, provided for the admission of the States of Iowa and Florida into the Union. The boundaries of Iowa, as fixed by this act, were not acceptable to the people, who refused their assent by a vote (under the provisions of the fourth section) of 7,235 for and 7,656 against.

same force and effect within the State of Iowa as elsewhere within the United States.

SEC. 2. *And be it further enacted*, That the said State shall be one district, and be called the district of Iowa; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions of the said district court annually, on the first Monday in January, and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside and keep the records of the said court at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is by law entitled for similar services.

SEC. 3. *And be it further enacted*, That there shall be allowed to the judge of the said district court the annual compensation of fifteen hundred dollars, to commence from the date of his appointment, to be paid quarterly, at the treasury of the United States.

SEC. 4. *And be it further enacted*, That there shall be appointed in the said district a person, learned in the law, to act as attorney for the United States; who shall, in addition to his stated fees, be paid annually by the United States two hundred dollars, as a full compensation for all extra services; the said payment to be made quarterly, at the treasury of the United States.

SEC. 5. *And be it further enacted*, That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed and allowed to marshals in other districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

SEC. 6. *And be it further enacted*, That in lieu of the propositions submitted to the Congress of the United States, by an ordinance passed on the first day of November, eighteen hundred and forty-four, by the convention of delegates at Iowa City, assembled for the purpose of making a constitution for the State of Iowa, which are hereby rejected, the following propositions be, and the same are hereby, offered to the legislature of the State of Iowa, for their acceptance or rejection; which if accepted, under the authority conferred on the said legislature by the convention which framed the constitution of the said State, shall be obligatory upon the United States:[a]

First. That section numbered sixteen in every township of the public lands, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

Second. That the seventy-two sections of land set apart and reserved for the use and support of a university, by an act of Congress approved on the twentieth day of July, eighteen hundred and forty,

[a] These propositions were accepted by an act of the general assembly of the State of Iowa January 15, 1849.

entitled "An act granting two townships of land for the use of a university in the Territory of Iowa," are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

Third. That five entire sections of land, to be selected and located under the direction of the legislature, in legal divisions of not less than one quarter-section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the State for the purpose of completing the public buildings of the said State, or for the erection of public buildings at the seat of government of the said State, as the legislature may determine and direct.

Fourth. That all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said State for its use; the same to be selected by the legislature thereof, within one year after the admission of said State, and the same, when so selected, to be used on such terms, conditions, and regulations as the legislature of the State shall direct: *Provided*, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided also*, That the general assembly shall never lease or sell the same, at any one time, for a longer period than ten years, without the consent of Congress.

Fifth. That 5 per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the admission of said State, after deducting all the expenses incident to the same, shall be appropriated for making public roads and canals within the said State, as the legislature may direct: *Provided*, That the five foregoing propositions herein offered are on the condition that the legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide by an ordinance, irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents, respectively.

Approved, March 3, 1845.

ACT DEFINING BOUNDARIES OF IOWA—1846 [a]

[TWENTY-NINTH CONGRESS, FIRST SESSION]

An Act to define the boundaries of the State of Iowa, and to repeal so much of the act of the third of March, one thousand eight hundred and forty-five, as relates to the boundaries of Iowa

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following shall be, and they are hereby, declared to be the boundaries of the State of Iowa, in lieu of those prescribed by the second section of the act of the third of March, eighteen hundred and forty-five, entitled "An Act for the Admission of the States of Iowa and Florida into the Union," viz. Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of that State adopted June twelfth, eighteen hundred and twenty, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri as established at the time aforesaid, until an extension of said line intersect the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map: thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersect the middle of the main channel of the Mississippi River; thence down the middle of the main channel of said Mississippi River to the place of beginning.

SEC. 2. *And be it further enacted*. That the question which has heretofore been the subject-matter of controversy and dispute between the State of Missouri and the Territory of Iowa, respecting the precise location of the northern boundary-line of the State of Missouri, shall be, and the same is hereby, referred to the Supreme Court of the United States for adjudication and settlement, in accordance with the act of the Legislature of Missouri, approved March twenty-five, eighteen hundred and forty-five, and the memorial of the Council and House of Representatives of the Territory of Iowa, approved January seventeenth, eighteen hundred and forty-six, by which both parties have agreed to "the commencement and speedy determination of such suit as may be necessary to procure final decision by the Supreme Court of the United States upon the true location of the northern boundary of that State;" and the said Supreme Court is hereby invested with all the power and authority necessary to the performance of the duty imposed by this section.

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[a] This legislation was to meet the wishes of the people of Iowa, who had rejected the boundaries previously defined by Congress in the act approved March 3, 1845.

SEC. 3. *And be it further enacted*, That, until the next census and apportionment shall be made, the State of Iowa shall be entitled to two Representatives in the House of Representatives of the United States.

SEC. 4. *And be it further enacted*, That so much of the act of the third of March, eighteen hundred and forty-five, entitled "An Act for the Admission of the States of Iowa and Florida into the Union," relating to the said State of Iowa, as is inconsistent with the provisions of this act, be, and the same is hereby, repealed.

Approved, August 4, 1846.

ACT ADMITTING STATE OF IOWA—1846

[TWENTY-NINTH CONGRESS, SECOND SESSION]

An Act for the admission of the State of Iowa into the Union

Whereas the people of the Territory of Iowa did, on the eighteenth day of May, anno Domini eighteen hundred and forty-six, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government—which constitution is republican in its character and features—and said convention has asked admission of the said Territory into the Union as a State, on an equal footing with the original States, in obedience to "An Act for the Admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred and forty-five, and "An Act to define the Boundaries of the State of Iowa, and to repeal so much of the Act of the third of March, one thousand eight hundred and forty-five, as relates to the Boundaries of Iowa," which said last act was approved August fourth, anno Domini eighteen hundred and forty-six: Therefore—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Iowa shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That all the provisions of "An Act supplemental to the Act for the Admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred and forty-five, be, and the same are hereby, declared to continue and remain in full force as applicable to the State of Iowa, as hereby admitted and received into the Union.

Approved, December 28, 1846.

CONSTITUTION OF IOWA—1846 [a]

We, the People of the Territory of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri—as established by the Constitution of that State, adopted June 12th, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of said Mississippi river to the place of beginning.

Article 1

BILL OF RIGHTS

Section 1. All men are, by nature, free and independnt, and have certain unalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Section 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

Section 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

Section 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of

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[a] Verified from "The Debates of the Constitutional Convention; of the State of Iowa, Assembled at Iowa City, Monday, January 19, 1857. Being a full and complete report of the debates and proceedings, by authority of the convention; accompanied, for purposes of reference, by a copious index of subjects, and remarks of members thereon. Official. W. Blair Lord, Reporter. Charles B. Collar, Henry M. Parkhurst, Assistants. Vol. 2. Davenport: Luse, Lane & Co., Publishers, Job Printers, and Bookbinders. 1857." Pages 1067–1096.

his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

SECTION 5. Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

SECTION 6. All laws of a general nature shall have a uniform operation.

SECTION 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions, or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

SECTION 8. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the papers and things to be seized.

SECTION 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts.

SECTION 10. In all criminal prosecutions, the accused shall have a right to a speedy trial by an impartial jury; to be informed of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for his own witnesses, and to have the assistance of a counsel.

SECTION 11. No person shall be held to answer for a criminal offense, unless on presentment or indictment by a grand jury, except in cases cognizable before a justice of the peace, or arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

SECTION 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great.

SECTION 13. The writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it.

SECTION 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and in time of war, no appropriation for a standing army shall be for a longer time than two years.

SECTION 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

SECTION 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SECTION 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

SECTION 18. Private property shall not be taken for public use without just compensation.

SECTION 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

SECTION 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

SECTION 21. No bill of attainer, ex-post-facto-law, or law impairing the obligation of contracts shall ever be passed.

SECTION 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and descent of property, as native-born citizens.

SECTION 23. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

SECTION 24. This enumeration of rights shall not be construed to impair or deny others, retained by the people.

ARTICLE 2

RIGHT OF SUFFRAGE

SECTION 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote, twenty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

SECTION 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SECTION 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SECTION 4. No person in the military, naval or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

SECTION 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

SECTION 6. All elections by the people shall be by ballot.

ARTICLE 3

OF THE DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of Iowa shall be divided into three separate departments: The Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function

appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority of this State shall be vested in a Senate and House of Representatives; which shall be designated the General Assembly of the State of Iowa; and the style of their laws shall commence in the following manner: "Be it enacted by the General Assembly of the State of Iowa."

SECTION 2. The sessions of the General Assembly shall be biennial, and shall commence on the first Monday of December next ensuing the election of its members; unless the Governor of the State shall, in the interim, convene the General Assembly by proclamation.

SECTION 3. The members of the House of Representatives shall be chosen every second year, by the qualified electors of their respective districts, on the first Monday in August; whose term of office shall continue two years from the day of the general election.

SECTION 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years; be a free white male citizen of the United States, and have been an inhabitant of this State or Territory one year next preceding his election; and at the time of his election have an actual residence of thirty days in the county or district he may be chosen to represent.

SECTION 5. Senators shall be chosen for the term of four years, at the same time and place as Representatives; they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

SECTION 6. The number of Senators shall not be less than one third, nor more than one half the representative body; and at the first session of the General Assembly, after this constitution takes effect, the Senators shall be divided by lot, as equally as may be, into two classes; the seats of the Senators of the first class shall be vacated at the expiration of the second year, so that one half shall be chosen every two years.

SECTION 7. When the number of Senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as practicable.

SECTION 8. Each House shall choose its own officers, and judge of the qualification, election and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

SECTION 9. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

SECTION 10. Each House shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

SECTION 11. Every member of the General Assembly shall have the liberty to dissent from, or protest against any act or resolution which

he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either House, on any question, shall, at the desire of any two members present, be entered on the journals.

SECTION 12. Senators and Representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same.

SECTION 13. When vacancies occur in either House, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.

SECTION 14. The doors of each House shall be open, except on such occasion as, in the opinion of the House, may require secrecy.

SECTION 15. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SECTION 16. Bills may originate in either House, except bills for revenue, which shall always originate in the House of Representatives, and may be amended, altered, or rejected by the other; and every bill having passed both Houses, shall be signed by the Speaker and President of their respective Houses.

SECTION 17. Every bill which shall have passed the General Assembly, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it with his objections, to the House in which it originated, which shall enter the same upon the journal, and proceed to reconsider it: if, after such reconsideration, it again pass both Houses, by yeas and nays, by a majority of two thirds of the members of each House present, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted), the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return.

SECTION 18. An accurate statement of the receipts and expenditures of the public money, shall be attached to and published with the laws, at every regular session of the General Assembly.

SECTION 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SECTION 20. The Governor, Secretary of State, Auditor, Treasurer, and Judges of the Supreme and District Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit, under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment, according to law. All other civil officers shall be tried for misdemeanors in office, in such manner as the General Assembly may provide.

SECTION 21. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the

emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

Section 22. No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to the General Assembly: Provided, that offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or postmasters whose compensation does not exceed one hundred dollars per annum, shall not be deemed lucrative.

Section 23. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the General Assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

Section 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Section 25. Each member of the General Assembly shall receive a compensation to be fixed by law, for his services, to be paid out of the treasury of the State. Such compensation shall not exceed two dollars per day, for the period of fifty days from the commencement of the session, and shall not exceed the sum of one dollar per day for the remainder of the session; when convened in extra session by the governor, they shall receive such sums as shall be fixed for the first fifty days of the ordinary session. They shall also receive two dollars for every twenty miles they travel, in going to and returning from their place of meeting, on the most usual route: Provided, however, That the members of the first General Assembly under this constitution shall receive two dollars per day for their services during the entire session.

Section 26. Every law shall embrace but one subject, which shall be expressed in the title.

Section 27. No law of the General Assembly, of a public nature, shall take effect until the same shall be published and circulated in the several counties of this State, by authority. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

Section 28. No divorce shall be granted by the General Assembly.

Section 29. No lottery shall be authorized by this State; nor shall the sale of lottery tickets be allowed.

Section 30. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the State of Iowa, and that I will faithfully discharge the duties of Senator, (or Representative, as the case may be,) according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the said oath or affirmation.

Section 31. Within one year after the ratification of this constitution, and within every subsequent term of two years, for the term of eight years, an enumeration of all the white inhabitants of this State shall be made, in such manner as shall be directed by law. The number of Senators and Representatives shall, at the first regular session of the General Assembly, after such enumeration, be fixed by

law, and apportioned among the several counties according to the number of white inhabitants in each; and (The General Assembly) shall also, at every subsequent regular session, apportion the House of Representatives; and every other regular session the Senate, for eight years; and the House of Representatives shall never be less than twenty-six, nor greater than thirty-nine, until the number of white inhabitants shall be one hundred and seventy-five thousand; and after that event, at such ratio that the whole number of Representatives shall never be less than thirty-nine nor exceeding seventy-two.

SECTION 32. When a Congressional, Senatorial, or Representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a Congressional, Senatorial, or Representative district.

SECTION 33. In all elections by the General Assembly, the members thereof shall vote viva voce; and the votes shall be entered upon the journal.

SECTION 34. For the first ten years after the organization of the government, the annual salary of the Governor shall not exceed one thousand dollars; Secretary of State five hundred dollars; Treasurer, four hundred dollars; Auditor, six hundred dollars; Judges of the Supreme and District Courts, each one thousand dollars.

ARTICLE 4

EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of Iowa.

SECTION 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office four years from the time of his installation, and until his successor shall be qualified.

SECTION 3. No person shall be eligible to the office of Governor, who has not been a citizen of the United States, and a resident of the State two years next preceding the election, and attained the age of thirty years, at the time of said election.

SECTION 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session, open and publish them in presence of both houses of the General Assembly. The person having the highest number of votes shall be Governor; but in case any two or more have an equal and the highest number of votes, the General Assembly shall, by joint vote, choose one of said persons so having an equal and the highest number of votes, for Governor.

SECTION 5. The Governor shall be commander-in-chief of the militia, the army and navy of this State.

SECTION 6. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SECTION 7. He shall see that the laws are faithfully executed.

SECTION 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

SECTION 9. He may, on extraordinary occasions, convene the General Assembly, by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

SECTION 10. He shall communicate by message to the General Assembly at every session, the condition of the State, and recommend such matters as he shall deem expedient.

SECTION 11. In case of disagreement between the two Houses, with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper, provided it be not beyond the time fixed for the meeting of the next General Assembly.

SECTION 12. No person shall, while holding any other office under the United States, or this State, execute the office of Governor, except as hereinafter expressly provided.

SECTION 13. The Governor shall have power to grant reprieves and pardons, and commute punishments after conviction, except in cases of impeachment.

SECTION 14. The Governor shall, at stated times, receive for his services, a compensation which shall neither be increased nor diminished during the time for which he shall have been elected.

SECTION 15. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

SECTION 16. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the great seal of this State, signed by the Governor, and countersigned by the Secretary of State.

SECTION 17. A Secretary of State, Auditor of Public Accounts, and Treasurer, shall be elected by the qualified electors, who shall continue in office two years. The Secretary of State shall keep a fair register of all the official acts of the Governor, and shall, when required, lay the same, together with all the papers, minutes, and vouchers thereto, before either branch of the General Assembly, and shall perform such other duties as shall be assigned him by law.

SECTION 18. In case of the impeachment of the Governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Secretary of State, until such disability shall cease, or the vacancy be filled.

SECTION 19. If, during the vacancy of the office of Governor, the Secretary of State shall be impeached, displaced, resign, die or be absent from the State, the powers and duties of the office of Governor shall devolve upon the President of the Senate; and should a vacancy occur by impeachment, death, resignation, or absence from the State of the President of the Senate, the Speaker of the House of Representatives shall act as Governor till the vacancy be filled.

Article 5

JUDICIAL DEPARTMENT

Section 1. The judicial power shall be vested in a Supreme Court, District Courts, and such inferior courts as the General Assembly may from time to time establish.

Section 2. The Supreme Court shall consist of a Chief Justice, and two associates, two of whom shall be a quorum to hold court.

Section 3. The Judges of the Supreme Court shall be elected by joint vote of both branches of the General Assembly, and shall hold their courts at such time and place as the General Assembly may direct, and hold their offices for six years, and until their successors are elected and qualified, and shall be ineligible to any other office during the term for which they may be elected. The Supreme Court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the General Assembly may by law prescribe. The Supreme Court may have power to issue all writs and process necessary to do justice to parties, and exercise a supervisory control over all inferior judicial tribunals, and the judges of the Supreme Court shall be conservators of the peace throughout the State.

Section 4. The District Court shall consist of a judge, who shall be elected by the qualified voters of the district in which he resides, at the (township) election, and hold his office for the term of five years, and until his successor is elected and qualified, and shall be ineligible to any other office during the term for which he may be elected. The District Court shall be a court of law and equity, and have jurisdiction in all civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law. The Judges of the District Courts shall be conservators of the peace in their respective districts. The first session of the General Assembly shall divide the State into four districts, which may be increased as the exigencies require.

Section 5. The qualified voters of each county shall, at the general election, elect one prosecuting attorney, and one clerk of the District Court, who shall be residents therein, and who shall hold their several offices for the term or four years, and until their successors are elected and qualified.

Section 6. The style of all process shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

Article 6

MILITIA

Section 1. The militia of this State shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained, as the General Assembly may provide by law.

Section 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: Provided, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

Section 3. All commissioned officers of the militia, (staff officers excepted,) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

Article 7

STATE DEBTS

Section 1. The General Assembly shall not in any manner create any debt or debts, liability, or liabilities, which shall singly, or in the aggregate, with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorized by some law for some single object or work to be distinctly specified therein; which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and the interest thereon shall be paid and discharged; but no such law shall take effect, until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

Article 8

INCORPORATIONS

Section 1. No corporate body shall hereafter be created, renewed or extended, with the privilege of making, issuing, or putting in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money. The General Assembly of this state shall prohibit, by law, any person or persons, association, company, or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

Section 2. Corporations shall not be created in this state by special laws, except for political or municipal purposes; but the General Assembly shall provide by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law. The state shall not, directly or indirectly, become a stockholder in any corporation.

Article 9

EDUCATION AND SCHOOL LANDS

Section 1. The General Assembly shall provide for the election, by the people, of a Superintendent of Public Instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the General Assembly may direct.

Section 2. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved A. D. 1841, and all estates of deceased persons, who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

Section 3. The General Assembly shall provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its proportion of the interest of the public fund during such neglect.

Section 4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall, from time to time, to provide by law.

Section 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this state, for the use of a university; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

Article 10

AMENDMENTS TO THE CONSTITUTION

Section 1. If at any time the General Assembly shall think it necessary to revise or amend this constitution, they shall provide by law for a vote of the people for or against a convention, at the next ensuing election for members of the General Assembly. In case a majority of the people vote in favor of a convention, the said General Assembly shall provide for an election of delegates to a convention, to be held within six months after the vote of the people in favor thereof.

Article 11

MISCELLANEOUS

Section 1. The jurisdiction of Justices of the Peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise), where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding five hundred dollars.

Section 2. No new county shall be laid off hereafter, nor old county reduced to less contents than four hundred and thirty-two square miles.

Section 3. The General Assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

Article 12

SCHEDULE

Section 1. That no inconvenience may arise from the change of a territorial government to a permanent state government, it is declared that all writs, actions, prosecutions, contracts, claims and rights, shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued, under the authority of the territory of Iowa, shall be as valid as if issued in the name of the state.

Section 2. All the laws now in force in this territory, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the General Assembly of this state.

Section 3. All fines, penalties and forfeitures accruing to the territory of Iowa, shall accrue to the use of the state.

Section 4. All recognizances heretofore taken, or which may hereafter be taken, before the organization of the judicial department under this constitution, shall remain valid, and shall pass to and may be prosecuted in the name of the State. And all bonds executed to the Governor of this territory, or to any other officer in his official

capacity, shall pass over to the governor of the state, or other proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen, or may arise, before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

SECTION 5. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of this territory, shall continue to hold and execute their respective offices and appointments until superseded under this constitution.

SECTION 6. The first general election under this constitution shall be held at such time as the governor of the territory, by proclamation may appoint, within three months after its adoption, for the election of a governor, two representatives in the Congress of the United States, (unless Congress shall provide for the election of one representative,) members of the general assembly, and one auditor, treasurer and secretary of state. Said election shall be conducted in accordance with the existing laws of this territory: and said governor, representatives in the Congress of the United States, auditor, treasurer, and secretary of state, duly elected at said election, shall continue to discharge the duties of their respective offices for the time prescribed by this constitution and until their successors are elected and qualified. The returns of said election shall be made in conformity to the existing laws of this territory.

SECTION 7. Until the first enumeration of the inhabitants of this state, as directed by this constitution, the following shall be the apportionment of the General Assembly:

The county of Jefferson, one Senator and three Representatives.

The county of Lee shall be entitled to two Senators and five Representatives;

The county of Van Buren, two Senators and four Representatives;

The counties of Davis and Appanoose, one Senator and one Representative, jointly;

The counties of Wapello and Monroe, one Senator jointly, and one Representative each;

The counties of Marion, Polk, Dallas and Jasper, one Senator and two Representatives, jointly;

The county of Des Moines, two Senators and four Representatives;

The county of Henry, one Senator and three Representatives;

The counties of Louisa and Washington, one Senator jointly, and one Representative each;

The counties of Keokuk and Mahaska, one Senator jointly and one Representative each;

The counties of Muscatine, Johnson and Iowa, one Senator and one Representative jointly, and Muscatine one Representative, and Johnson and Iowa one Representative jointly;

The counties of Scott and Clinton, one Senator jointly, and one Representative each;

The counties of Cedar, Linn and Benton, one Senator jointly; the county of Cedar, one Representative, and the counties of Linn and Benton, one Representative jointly;

The counties of Jackson and Jones, one Senator and two Representatives;

The counties of Dubuque, Delaware, Clayton, Fayette, Buchanan, and Blackhawk, two Senators and two Representatives jointly;

And any county attached to any county for judicial purposes, shall, unless otherwise provided for, be considered as forming part of such county for election purposes.

SECTION 8. The first meeting of the General Assembly under this Constitution shall be at such times as the Governor of the territory may by proclamation appoint, within four months after its ratification by the people, in Iowa City, in Johnson county, which place shall be the seat of government of the State of Iowa, until removed by law.

Done in convention at Iowa City, this eighteenth day of May, in the year of our Lord one thousand eight hundred and forty-six, and of the Independence of the United States of America, the seventieth.

In testimony whereof, we have hereunto subscribed our names:

ENOS LOWE, *President.*

Attest:

WM. THOMPSON, *Secretary.*

CONSTITUTION OF IOWA—1857 *

We, the People of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of The State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the State of Missouri—as established by the Constitution of that State, adopted June 12th, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to the said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of the said Mississippi river to the place of beginning.

* Verified by "The Constitution of the State of Iowa. Adopted March 5, 1857.—with Subsequent Amendments. Printed from the Original Enrollment. Compiled by Frank D. Jackson, Secretary of State. Des Moines, Iowa: G. H. Ragsdale, State printer. 1889." And from the Official Register, 1906.

Article I

BILL OF RIGHTS

Section 1. All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Sec. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

Sec. 3. The General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates, for building or repairing places of worship, or the maintenance of any minister or ministry.

Sec. 4. No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person, not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

Sec. 5. Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

Sec. 6. All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen or class of citizens, privileges or immunities, which upon the same terms shall not equally belong to all citizens.

Sec. 7. Every person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives and for justifiable ends, the party shall be acquitted.

Sec. 8. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Sec. 9. The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

Sec. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the

accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and to have the assistance of counsel.

Sec. 11. All offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

Sec. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, where the proof is evident, or the presumption great.

Sec. 13. The writ of habeas corpus shall not be suspended, or refused when application is made as required by law, unless in case of rebellion or invasion the public safety may require it.

Sec. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and in time of war, no appropriation for a standing army shall be for a longer time than two years.

Sec. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sec. 16. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

Sec. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

Sec. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

Sec. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a military fine in time of peace.

Sec. 20. The people have the right to freely assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

Sec. 21. No bill of attainder, ex-post-facto law, or law impairing the obligation of contracts, shall ever be passed.

Sec. 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property, as native born citizens.

Sec. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

Sec. 24. No lease or grant of agricultural lands, reserving any

rent or service of any kind, shall be valid for a longer period than twenty years.

SEC. 25. The enumeration of rights shall not be construed to impair or deny others, retained by the people.

[SEC. 26. No person shall manufacture for sale, or sell, or keep for sale, as a beverage, any intoxicating liquors whatever, including ale, wine and beer. The General Assembly shall be lay prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provision hereof.]

[The foregoing amendment was adopted at a special election held on June 27, 1882. The supreme court, April 21, 1883, in the case of Koehler & Lange *vs.* Hill, and reported in 60th Iowa, page 543, held that owing to certain irregularities, the same was not legally submitted to the electors, and did not become a part of the constitution.]

ARTICLE II

RIGHT OF SUFFRAGE

SECTION 1. Every [*white*] male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State six months next preceding the election, and of the county in which he claims his vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

[Amended by striking out the word "white" at the general election in 1868.]

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such elections, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

SEC. 4. No person in the militiary, naval, or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place or station within this state.

SEC. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

SEC. 6. All elections by the people shall be by ballot.

[Amendment.] The general election for state, district, county and township officers, shall be held on the Tuesday next after the first Monday in November.

[The foregoing amendment was adopted at the general election in 1884.]

ARTICLE III

OF THE DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of Iowa shall be divided into three separate departments: The Legislative, the Executive and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT

SECTION 1. The Legislative authority of this state shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives; and the style of every law shall be:

"Be it enacted by the General Assembly of the State of Iowa."

SEC. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the Governor of the State shall, in the meantime, convene the General Assembly by proclamation.

SEC. 3. The members of the House of Representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the Presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

[By an amendment adopted at the general election in 1884, elections now occur uniformly in November.]

SEC. 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years, be a [*free white*] male citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

[Amended by striking out the words "free white," at the general election in 1880.]

SEC. 5. Senators shall be chosen for the term of four years, at the same time and place as Representatives; they shall be twenty-five years of age, and possess the qualifications of Representatives as to residence and citizenship.

SEC. 6. The number of Senators shall not be less than one-third nor more than one-half the Representative body; and shall be so classified by lot, that one class being as nearly one-half as possible, shall be elected every two years. When the number of Senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such a manner as shall be directed by law.

SEC. 8. A majority of each House shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalties as each House may provide.

SEC. 9. Each House shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

SEC. 10. Every member of the General Assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either House, on any question, shall, at the desire of any two members present, be entered on the journals.

SEC. 11. Senators and Representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same.

SEC. 12. When vacancies occur in either House, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

SEC. 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either House, and may be amended, altered, or rejected by the other; and every bill having passed both Houses, shall be signed by the Speaker and President of their respective Houses.

SEC. 16. Every bill which shall have passed the General Assembly, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both Houses, by yeas and nays, by a majority of two-thirds of the members of each House, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted), the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return. Any bill submitted to the Governor for his approval during the last three days of a session of the General Assembly, shall be deposited by him in the office of the Secretary of State within thirty days after the adjournment, with his approval, if approved by him, and with his objections if he disapproves thereof.

SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered upon the journal.

SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the General Assembly.

SEC. 19. The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 20. The Governor, Judges of the Supreme and District Courts, and other State officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall

extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the General Assembly may provide.

Sec. 21. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

Sec. 22. No person holding any lucrative office under the United States, or this State, or any other power, shall be eligible to hold a seat in the General Assembly; but offices in the militia, to which there is attached no annual salary, or the office of Justice of the Peace, or Postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

Sec. 23. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either House of the General Assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

Sec. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Sec. 25. Each member of the first General Assembly under this Constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles traveled in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no General Assembly shall have the power to increase the compensation of its members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session and none other.

Sec. 26. No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the General Assembly by which they were passed. If the General Assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

Sec. 27. No divorce shall be granted by the General Assembly.

Sec. 28. No lottery shall be authorized by this State; nor shall the sale of lottery tickets be allowed.

Sec. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title, but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Sec. 30. The General Assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for state, county, or road purposes;

For laying out, opening, and working roads or highways;
For changing the names of persons;
For the incorporation of cities and towns;
For vacating roads, town plats, streets, alleys, or public squares;
For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local, or private purposes, unless such appropriation, compensation or claim be allowed by two thirds of the members elected to each branch of the General Assembly.

SEC. 32. Members of the General Assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, (as the case may be,) that I will support the Constitution of the United States, and the Constitution of the State of Iowa, and that I will faithfully discharge the duties of Senator, (or Representative, as the case may be,) according to the best of my ability." And members of the General Assembly are hereby empowered to administer to each other the said oath or affirmation.

SEC. 33. The General Assembly shall, in the years one thousand eight hundred and fifty-nine, one thousand eight hundred and sixty three, one thousand eight hundred and sixty-five, one thousand eight hundred and sixty-seven, one thousand eight hundred sixty-nine, and one thousand eight hundred and seventy-five, and every ten years thereafter, cause an enumeration to be made of all the [*white*] inhabitants of the State.

[Amended by striking out the word "white" at the general election in 1868.]

SEC. 34. The number of Senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of [*white*] inhabitants in each.

[Amended by striking out the word "white" at the general election in 1868.]

SEC. 35. The Senate shall not consist of more than fifty members, nor the House of Representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts in the State according to the number of [*white*] inhabitants in each, upon ratios to be fixed by law; but no representative district shall contain more than four organized counties, and each district shall be entitled to at least one Representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law, shall be entitled to one Representative;

and any one county containing, in addition to the ratio fixed by law, one-half of that number, or more, shall be entitled to one additional Representative. No floating district shall hereafter be formed.

[Amended by striking out the word "white" at the general election in 1868.]

Sec. 36. At its first session under this Constitution, and at every subsequent regular session, the General Assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a Representative.

Sec. 37. When a Congressional, Senatorial, or Representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a Congressional, Senatorial, or Representative district.

Sec. 38. In all elections by the General Assembly, the members thereof shall vote viva voce; and the votes shall be entered on the journal.

Article IV

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Iowa.

Sec. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the General Assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

Sec. 3. There shall be a Lieutenant Governor, who shall hold his office two years, and be elected at the same time as the Governor. In voting for Governor and Lieutenant Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor, and Lieutenant Governor, shall be sealed up and transmitted to the seat of Government of the State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

Sec. 4. The persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be declared duly elected; but in case two or more persons shall have an equal, and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of said persons Governor, or Lieutenant Governor, as the case may be.

Sec. 5. Contested elections for Governor, or Lieutenant Governor, shall be determined by the General Assembly in such manner as may be prescribed by law.

Sec. 6. No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have been a citizen of the United States, and a resident of the State two years next preceding the election, and attained the age of thirty years at the time of said election.

Sec. 7. The Governor shall be commander in chief of the militia, the army, and navy of this State.

SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the Executive Department upon any subject relating to the duties of their respective offices.

SEC. 9. He shall take care that the laws are faithfully executed.

SEC. 10. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly or at the next election by the people.

SEC. 11. He may, on extraordinary occasions, convene the General Assembly, by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

SEC. 12. He shall communicate, by message, to the General Assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 13. In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly.

SEC. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of Governor, or Lieutenant-Governor, except as hereinafter expressly provided.

SEC. 15. The official term of the Governor, and Lieutenant-Governor, shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The Lieutenant-Governor, while acting as Governor, shall receive the same pay as provided for Governor: and while presiding in the Senate, shall receive as compensation therefor, the same mileage and double the per diem pay provided for a Senator, and none other.

SEC. 16. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reason therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant-Governor.

SEC. 18. The Lieutenant-Governor shall be President of the Senate, but shall only vote when the Senate is equally divided; and in case of

his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President pro tempore.

Sec. 19. If the Lieutenant-Governor, while acting as Governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the President pro tempore of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

Sec. 20. There shall be a seal of this State, which shall be kept by the Governor, and used by him Officially, and shall be called the Great Seal of the State of Iowa.

Sec. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Sec. 22. A Secretary of State, Auditor of State, and Treasury of State shall be elected by the qualified electors, who shall continue in office two years, and untill their successors are elected and qualified; and perform such duties as may be required by law.

Article V

JUDICIAL DEPARTMENT

Section 1. The Judicial power shall be vested in a Supreme Court, District Court, and such other Courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.

Sec. 2. The Supreme Court shall consist of three Judges, two of whom shall constitute a quorum to hold Court.

Sec. 3. The Judges of the Supreme Court shall be elected by the qualified electors of the State, and shall hold their Court at such time and place as the General Assembly may prescribe. The Judges of the Supreme Court so elected, shall be classified so that one Judge shall go out of office every two years; and the Judge holding the shortest term of office under such classification, shall be Chief Justice of the Court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each Judge of the Supreme Court shall be six years, and until his successor shall have been elected and qualified. The Judges of the Supreme Court shall be ineligible to any other office in the State, during the term for which they have been elected.

Sec. 4. The Supreme Court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the General Assembly may by law prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

Sec. 5. The District Court shall consist of a single Judge, who shall be elected by the qualified electors of the District in which he resides. The Judge of the District Court shall hold his office for the term of four years, and until his successor shall have been elected

and qualified; and shall be ineligible to any other office except that of Judge of the Supreme Court, during the term for which he was elected.

SEC. 6. The District Court shall be a Court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

SEC. 7. The Judges of the Supreme and District Courts shall be conservators of the peace throughout the State.

SEC. 8. The style of all process shall be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 9. The salary of each Judge of the Supreme Court shall be two thousand dollars per annum; and that of each District Judge, one thousand six hundred dollars per annum, until the year eighteen hundred and sixty; after which time they shall severally receive such compensation as the General Assembly may, by law, prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

SEC. 10. The State shall be divided into eleven Judicial Districts; and after the year eighteen hundred and sixty, the General Assembly may reorganize the Judicial Districts, and increase or diminish the number of Districts, or the number of Judges of the said Court, and may increase the number of Judges of the Supreme Court; but such increase or diminution shall not be more than one District, or one Judge of either Court, at any one session; and no re-organization of the Districts, or diminution of the number of Judges, shall have the effect of removing a Judge from office. Such re-organization of the Districts, or any change in the boundaries thereof, or increase or diminution of the number of Judges, shall take place every four years thereafter, if necessary, and at no other time.

[Amendment.] At any regular session of the General Assembly, the State may be divided into the necessary Judicial Districts for District Court purposes, or the said districts may be re-organized and the number of the districts and the Judges of said courts increased or diminished; but no re-organization of the districts or diminution of the judges shall have the effect of removing a Judge from office.

[The foregoing amendment was adopted at the general election in 1884.]

SEC. 11. The Judges of the Supreme and District Courts shall be chosen at the general election; and the term of office of each Judge shall commence on the first day of January next after his election.

SEC. 12. The General Assembly shall provide, by law, for the election of an Attorney-General by the people, whose term of office shall be two years, and until his successor shall have been elected and qualified.

[SEC. 13. The qualified electors of each Judicial District shall, at the time of the election of District Judge, elect a District Attorney, who shall be a resident of the District for which he is elected, and who shall hold his office for the term of four years, and until his successor shall have been elected and qualified.]

[The foregoing section was stricken out and the following substituted therefor, at the general election in 1884.]

[Sec. 13.] The qualified electors of each county shall, at the general election in the year 1886, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified.

[The foregoing section was adopted as a substitute for the original section at the general election in 1884.]

Sec. 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the Courts of this State.

[Amendment.] The grand jury may consist of any number of members, not less than five, nor more than fifteen, as the General Assembly may by law provide, or the General Assembly may provide for holding persons to answer for any criminal offence without the interference of a grand jury.

[The foregoing amendment was adopted at the general election in 1884.]

Article VI

MILITIA

Section 1. The militia of this State shall be composed of all able-bodied [*white*] male citizens, between the ages of eighteen and forty-five years, except such as are, or may hereafter be, exempt by the laws of the United States, or of this State; and shall be armed, equipped, and trained, as the General Assembly may provide by law.

[Amended by striking out the word "white," at the general election in 1868.]

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do military duty in time of peace; *provided*, that such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

Sec. 3. All commissioned officers of the militia (staff officers excepted) shall be elected by persons liable to perform military duty, and shall be commissioned by the Governor.

Article VII

STATE DEBTS

Section 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State.

Sec. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Sec. 3. All losses to the Permanent, School, or University fund of this State, which shall have been occasioned by the defalcation, mis-

management, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund, sustaining the loss, upon which not less than six per cent annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

SEC. 6. The Legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may, at any time, forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability, which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

SEC. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII

CORPORATIONS

SECTION 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

SEC. 2. The property of all corporations for pecuniary profit shall be subject to taxation, the same as that of individuals.

SEC. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war, for the benefit of the State.

Sec. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

Sec. 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

Sec. 6. Subject to the provisions of the foregoing section, the General Assembly may also provide for the establishment of a State Bank, with branches.

Sec. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended for circulation as money.

Sec. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom.

Sec. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all of its liabilities, accruing while he or she remains such stockholder.

Sec. 10. In case of the insolvency of any banking institution, the bill holders shall have a preference over its other creditors.

Sec. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

Sec. 12. Subject to the provisions of this article the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

Article IX

EDUCATION AND SCHOOL LANDS

1st.—Education

Section 1. The educational interest of the State, including Common Schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the

Lieutenant-Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

SEC. 2. No person shall be eligible as a member of said Board who shall not have attained the age of twenty-five years, and shall have been one year a citizen of the State.

SEC. 3. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the Board shall be chosen every two years thereafter.

SEC. 4. The first session of the Board of Education shall be held at the Seat of Government, on the first Monday of December, after their election; after which the General Assembly may fix the time and place of meeting.

SEC. 5. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the Board, the Governor may order a special session.

SEC. 6. The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly.

SEC. 7. All rules and regulations made by the Board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the Board, and when so made, published and distributed, they shall have the force and effect of law.

SEC. 8. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other eductional institutions, that are instituted, to receive aid from the School or University fund of this State; but all acts, rules, and regulations of said Board may be altered, amended or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Education.

SEC. 9. The Governor of the State shall be, *ex-officio*, a member of said Board.

SEC. 10. The Board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the General Assembly.

SEC. 11. The State University shall be established at one place without branches at any other place, and the University fund shall be applied to that institution and no other.

SEC. 12. The Board of Education shall provide for the education of all the youths of the State, through a system of common schools, and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, as aforesaid, may be deprived of their portion of the school fund.

Sec. 13. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

Sec. 14. A majority of the Board shall constitute a quorum for the transaction of business; but no rule, regulation, or law, for the government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Sec. 15. At any time after the year one thousand, eight hundred and sixty-three, the General Assembly shall have power to abolish or re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

2nd.—School Funds and School Lands

Section 1. The educational and school funds and lands, shall be under the control and management of the General Assembly of this State.

Sec. 2. The University lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Sec. 3. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Sec. 4. The money which may have been or shall be paid by persons as an equivalent from exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the Board of Education shall from time to time provide.

Sec. 5. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or

may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of the University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

SEC. 6. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue, for other civil purposes, under such regulations as may be provided by law.

SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

ARTICLE X

AMENDMENTS TO THE CONSTITUTION

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law for three months previous to the time of making such choice; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people in such manner, and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such times as the General Assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention.

Article XI

MISCELLANEOUS

Section 1. The jurisdiction of Justices of the Peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to real estate may arise,) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

Sec. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area; except the county of Worth, and the counties west of it, along the northern boundary of this State, may be organized without additional territory.

Sec. 3. No county, or other political or municipal corporation, shall be allowed to become indebted, in any manner, or for any purpose, to an amount, in the aggregate, exceeding five per centum of the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness.

Sec. 4. The boundaries of the State may be enlarged, with the consent of Congress and the General Assembly.

Sec. 5. Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

Sec. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.

Sec. 7. The General Assembly shall not locate any of the public lands which have been, or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

Sec. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk: and the State University at Iowa City, in the county of Johnson.

Article XII

SCHEDULE

Section 1. The Constitution shall be the supreme law of the State, and any law inconsistent therewith, shall be void. The General Assembly shall pass all laws necessary to carry this Constitution into effect.

Sec. 2. All laws now in force and not inconsistent with this Constitution, shall remain in force until they shall expire or be repealed.

Sec. 3. All indictments, prosecutions, suits, pleas, plaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of

error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as now provided by law, and all offenses, misdemeanors and crimes that may have been committed before the taking effect of this Constitution, shall be subject to indictment, trial and punishment, in the same manner as they would have been had not this Constitution been made.

SEC. 4. All fines, penalties, or forfeitures due, or to become due, or accruing to the State, or to any county therein, or to the school fund, shall inure to the State, county, or school fund, in the manner prescribed by law.

SEC. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to use of those concerned.

SEC. 6. The first election under this Constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the Governor and Lieutenant-Governor. There shall also be elected at such election, the successors of such State Senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the House of Representatives, who shall be elected in accordance with the act of apportionment, enacted at the session of the General Assembly which commenced on the first Monday of December one thousand eight hundred and fifty-six.

SEC. 7. The first election for Secretary, Auditor, and Treasurer of State, Attorney-General, District Judges, Members of the Board of Education, District Attorneys, Members of Congress, and such State Officers as shall be elected at the April Election, in the year one thousand eight hundred and fifty-seven, (except the Superintendent of Public Instruction), and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except Prosecuting Attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: *Provided*, That the time for which any District Judge or other State or county officer elected at the April election in the year one thousand eight hundred and fifty-eight, shall not extend beyond the time fixed for filling like offices at the October election, in the year one thousand eight hundred and fifty-eight.

SEC. 8. The first election for Judges of the Supreme Court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-nine.

SEC. 9. The first regular session of the General Assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

SEC. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

SEC. 11. Every person elected by popular vote, by a vote of the General Assembly, or who may hold office by executive appointment, which office is continued by this Constitution, and every person who shall be so elected or appointed to any such office, before the taking

effect of this Constitution, (except as in the Constitution otherwise provided), shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office after the taking effect of this Constitution, for a longer period than the term of such office, in this Constitution prescribed.

SEC. 12. The General Assembly, at the first session under this Constitution, shall district the State into eleven Judicial Districts, for District Court purposes; and shall also provide for the apportionment of the members of the General Assembly in accordance with the provisions of this Constitution.

SEC. 13. This Constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the Constitution, "New Constitution—Yes." Those against the Constitution, "New Constitution—No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the Code, and abstracts shall be forwarded to the Secretary of State, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election for and against this Constitution are in favor of the same, the Governor shall immediately issue his proclamation stating that fact, and such Constitution shall be the Constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

SEC. 14. At the same election that this Constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white" from the article on the "Right of Suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in the manner following, Namely: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' Yes." And those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of Suffrage?' No." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this Constitution, then said word 'white' shall be stricken from said article and be no part thereof.

SEC. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the Sixth Judicial District of this State.

Done in convention at Iowa City, this fifth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America, the eighty-first.

In testimony whereof, we have hereunto subscribed our names.

FRANCIS SPRINGER, *President.*

Attest:

TH. J. SAUNDERS, *Secretary.*
E. N. BATES, *Assistant Secretary.*

SUMMARY OF AMENDMENTS TO THE CONSTITUTION

By vote of the people, November 3d, 1868, and proclamation of the Governor, December 8th, 1868:

1st. Strike the word "white" from section one of article two thereof.

2d. Strike the word "white" from section thirty-three of article three thereof.

3d. Strike the word "white" from section thirty-four of article three thereof.

4th. Strike the word "white" from section thirty-five of article three thereof.

5th. Strike the word "white" from section one of article six thereof.

By vote of the people November 2d, 1880, and certificate of the Board of State Canvassers, December 3rd, 1880:

Strike out the words "free white" from the third line of section four [4] of article three[3] of said Constitution, relating to the legislative department.

By vote of the people, June 27th, 1882, and certificate of the Board of State Canvassers, July 28th, 1882:

SECTION 26. No person shall manufacture for sale, or sell, or keep for sale, as a beverage, any intoxicating liquors whatever, including ale, wine and beer. The General Assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provision hereof.

[The Supreme Court, April 21st, 1883, in the case of Koehler & Lange *vs.* Hill, reported in 60th Iowa, page 543, held that the amendment, Section 26, as submitted to the electors did not become a part of the constitution.]

By vote of the people, November 4th, 1884, and certificate of the Board of State Canvassers, December, 10th, 1884:

Amendment 1.—The general election for state, district, county and township officers, shall be held on the Tuesday next after the first Monday in November.

Amendment 2.—At any regular session of the General Assembly the state may be divided into the necessary judicial districts for district court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

Amendment 3.—The grand jury may consist of any number of members, not less than five, nor more than fifteen, as the General Assembly may by law provide, or the General Assembly may provide for holding persons to answer for any criminal offense without the intervention of a grand jury.

Amendment 4.—That section 13 of article 5 of the Constitution be stricken therefrom, and the following adopted as such section:

"SECTION 13. The qualified electors of each county shall, at the general election in the year 1886, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which

he is elected, and shall hold his office for two years, and until the successor shall have been elected and qualified."

By proper legislative action (29 G. A., Joint Res. No. 2, and 30 G. A., Joint Res. No. 2), by vote of the people November eighth, one thousand nine hundred and four and certificate of the board of state canvassers, November twenty-ninth, one thousand nine hundred and four:

That section thirty-four (34), thirty-five (35) and thirty-six (36) of article three (3) of the constitution of the state of Iowa, be repealed and the following be adopted in lieu thereof.

"SECTION 34. The senate shall be composed of fifty members to be elected from the several senatorial districts, established by law and at the next session of the general assembly held following the taking of the state and national census, they shall be apportioned among the several counties or districts of the state, according to population as shown by the last preceding census.

"SECTION 35. The house of representatives shall consist of not more than one hundred and eight members. The ratio of representation shall be determined by dividing the whole number of the population of the state as shown by the last preceding state or national census, by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three-fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

"SECTION 36. The general assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation, and apportion the additional representatives, as herein before required."

By proper legislative action (29 G. A. Joint Res. No. 5 and 30 G. A., Joint Res. No. 1,) by vote of the people November eighth, one thousand nine hundred and four, and certificate of the board of state canvassers, November twenty-ninth, one thousand nine hundred and four:

"Add as section sixteen, to article twelve of the constitution, the following:

"SEC. 16. The first general election after the adoption of this amendment shall be held on the Tuesday next after the first Monday in November in the year one thousand nine hundred and six, and general elections shall be held biennially thereafter. In the year one thousand nine hundred and six there shall be elected a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, two judges of the supreme court, the successors of the judges of the district court whose terms of office expire on December 31st, one thousand nine hundred and six, state senators

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[a] Practically the same amendment was adopted by the people November 6th, 1900, but the supreme court, February 1, 1901, in the case of the State of Iowa ex rel Marsh W. Bailey, *vs.* S. W. Brookhart, respondent, appellant, held that the amendment, section 16, was not proposed and adopted as required by the constitution, and did not become a part thereof.

who would otherwise be chosen in the year one thousand nine hundred and five, and members of the house of representatives. The terms of office of the judges of the supreme court which would otherwise expire on December 31st, in odd-numbered years, and all other elective state, county and township officers whose terms of office would otherwise expire in January in the year one thousand nine hundred and six, and members of the general assembly whose successors would otherwise be chosen at the general election in the year one thousand nine hundred and five, are hereby extended one year and until their successors are elected and qualified. The terms of offices of senators whose successors would otherwise be chosen in the year one thousand nine hundred and seven are hereby extended one year and until their successors are elected and qualified. The general assembly shall make such changes in the law governing the time of election and term of office of all other elective officers as shall be necessary to make the time of their election and terms of office conform to this amendment, and shall provide which of the judges of the supreme court shall serve as chief justice. The general assembly shall meet in regular session on the second Monday in January, in the year one thousand nine hundred and six, and also on the second Monday in January in the year one thousand nine hundred and seven, and biennally thereafter."

KANSAS

For organic acts issued before 1854 relating to the land now included within Kansas see in this work:—

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
District of Louisiana, 1804 (Louisiana, p. 1364).
Territorial Government of Louisiana, 1805 (Louisiana, p. 1371).
Territorial Government of Missouri, 1812 (Missouri, p. 2139).
Treaty of Cession with Spain, 1819 (Florida, p. 649).
Act for Government of Indian Country, 1834 (Indian Territory, p. 1097).
Joint Resolution Admitting Texas, 1845 (Texas, p. 3544).

TERRITORIAL GOVERNMENT OF KANSAS—1854

[THIRTY-THIRD CONGRESS, FIRST SESSION]

An Act to organize the Territories of Nebraska and Kansas

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit: beginning at a point in the Missouri River, where the fortieth parallel of north latitude crosses the same; thence west on said parallel to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence on said summit northward to the forty-ninth parallel of north latitude; thence east on said parallel to the western boundary of the Territory of Minnesota; thence southward on said boundary to the Missouri River; thence down the main channel of said river to the place of beginning; be, and the same is hereby, created into a temporary government by the name of the Territory of Nebraska; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within

the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Nebraska shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a Secretary of said Territory who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the

Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the Council shall be declared by the governor to be duly elected to the Council; and the persons having the highest number of legal votes for the House of Representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the governor shall order a new election; and the persons thus elected to the Legislative Assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory, by reason of being on service therein.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United

States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the Council and House of Representatives of the said Territory shall, before it become a law, be presented to the Governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Assembly, by adjournment, prevents its return, in which case it shall not be a law.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Nebraska. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for; and in the first instance the Governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the Legislative Assembly; and shall lay off the necessary districts for members of the Council and House of Representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the Legislative Assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly; and no person holding a commission or appointment under the United States, except Postmasters, shall be a member of the Legislative Assembly, or hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the Supreme Court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the

probate courts and justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, shall be allowed in all cases from the final decisions of said district courts to the Supreme Court, under such regulations as may be prescribed by law; but in no case removed to the Supreme Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said Supreme Court shall be allowed and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves the said writs of error or appeals shall be allowed and decided by the said Supreme Court without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decision of the said Supreme Court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of *habeas corpus*, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions to the "act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and Laws of the United States as is vested in the Circuit and District Courts of the United States; and the said Supreme and District Courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws, and writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That the provisions of an act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelve, seven-

teen hundred and ninety-three, and the provisions of the act entitled "An act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of said Territory of Nebraska.

SEC. 11. *And be it further enacted*, That there shall be appointed an Attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the Attorney of the United States for the present Territory of Utah. There shall also be a Marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees as the Marshal of the District Court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 12. *And be it further enacted*, That the Governor, Secretary, Chief Justice, and Associate Justices, Attorney, and Marshal shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The Governor and Secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the District Judge or some Justice of the Peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice, or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificate shall be received and recorded by the said Secretary among the Executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said Governor or Secretary, or some Judge or Justice of the Peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the Secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of two thousand five hundred dollars. The Chief Justice and Associate Justices shall each receive an annual salary of two thousand dollars. The Secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the Legislative Assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in

going to and returning from the said sessions, estimated according to the nearest usually traveled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the Legislative Assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the Legislature annually, unless, on an extraordinary occasion, the Governor shall think proper to call the Legislature together. There shall be appropriated, annually, the usual sum, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the Executive Department; and there shall also be appropriated, annually, a sufficient sum to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses; and the Governor and Secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said Legislative Assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 13. *And be it further enacted*, That the Legislative Assembly of the Territory of Nebraska shall hold its first session at such time and place in said Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the Governor and Legislative Assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said Governor and Legislative Assembly.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives, but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner as the Governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all Laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere within the United States, except the eighth section of the act

preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

Sec. 15. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the Territorial governments, a sufficient amount to be expended under the direction of the said Governor of the Territory of Nebraska, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable public buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

Sec. 16. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

Sec. 17. *And be it further enacted*, That, until otherwise provided by law, the Governor of said Territory may define the Judicial Districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said Judicial Districts by proclamation, to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Sec. 18. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Nebraska, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

Sec. 19. *And be it further enacted*, That all that part of the Territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point on the western

boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Kansas, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Kansas, or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed.

Sec. 20. *And be it further enacted*, That the executive power and authority in and over said Territory of Kansas shall be vested in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

Sec. 21. *And be it further enacted*, That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his Executive Department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the

executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and, in case of the death, removal, resignation, or absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

SEC. 22. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of Representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and Representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected, respectively. Previous to the first election, the Governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such persons and in such mode as the Governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the Governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said Council Districts for members of the Council, shall be declared by the Governor to be duly elected to the Council; and the persons having the highest number of legal votes for the House of Representatives shall be declared by the Governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election; and the person thus elected to the Legislative Assembly shall meet at such place and on such day as the Governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House

of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 23. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory by reason of being on service therein.

SEC. 24. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the Council and House of Representatives of the said Territory shall, before it become a law, be presented to the Governor of the Teritory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Assembly, by adjournment, prevent its return, in which case it shall not be a law.

SEC. 25. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Kansas. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for; and, in the first instance, the Governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the Legislative Assembly; and shall lay off the

necessary districts for members of the Council and House of Representatives, and all other officers.

SEC. 26. *And be it further enacted*, That no member of the Legislative Assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly: and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the Legislative Assembly, or shall hold any office under the government of said Territory.

SEC. 27. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the Supreme Court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the Supreme Court, under such regulations as may be prescribed by law; but in no case removed to the Supreme Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by said supreme court, without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the

United States, from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of habeas corpus, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisons of the "act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the Circuit and District Courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive the same fees in all such cases which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 28. *And be it further enacted*, That the provisions of the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of the said Territory of Kansas.

SEC. 29. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the Attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the Marshal of the District Court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 30. *And be it further enacted*, That the Governor, Secretary, Chief Justice, and Associate Justices, Attorney, and Marshal shall be nominated, and, by and with the advice and consent of the Senate, appointed, by the President of the United States. The Governor and Secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or

some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said Governor or Secretary, or some Judge or Justice of the Peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the Secretary, to be by him recorded as aforesaid; and, afterward, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of two thousand five hundred dollars. The Chief Justice and Associate Justices shall receive an annual salary of two thousand dollars. The Secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the Legislative Assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the Legislative Assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the Legislature annually, unless, on an extraordinary occasion, the Governor shall think proper to call the Legislature together. There shall be appropriated, annually, the usual sum, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the Executive Department; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses; and the Governor and Secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semiannually, account to said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said Legislative Assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 31. *And be it further enacted*, That the seat of government of said Territory is hereby located temporarily at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes may be occupied and used, under the direction of the Governor and Legislative Assembly, for such public purposes as may be required under the provisions of this act.

SEC. 32. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives, but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the Compromise Measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

SEC. 33. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount, to be expended under the direction of the said Governor of the Territory of Kansas, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons, and under such regulations as shall be prescribed by law.

SEC. 34. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose

of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 35. *And be it further enacted*, That until otherwise provided by law, the Governor of said Territory may define the Judicial Districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts as to them shall seem proper and convenient.

SEC. 36. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Kansas, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 37. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the Territories embraced within this act shall be faithfully and rigidly observed, notwithstanding anything contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of superintendent.

Approved, May 30, 1854.

ACT FOR THE ADMISSION OF KANSAS—1861 [a]

[THIRTY-SIXTH CONGRESS, SECOND SESSION]

An Act for the Admission of Kansas into the Union

Whereas the people of the Territory of Kansas, by their representatives in Convention assembled, at Wyandott, in said Territory, on the Twenty-ninth day of July, one thousand eight hundred and fifty-nine, did form for themselves a constitution and State government, republican in form, which was ratified and adopted by the people at an election held for that purpose on Tuesday, the fourth day of October, one thousand eight hundred and fifty-nine, and the said Convention has, in their name and behalf, asked the Congress of the United States to admit the said Territory into the Union as a State, on an equal footing with the other States: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas shall be, and is hereby declared to be, one of the United

[a] See also an act to provide for the admission of the State of Kansas into the Union upon certain conditions, May 4, 1858.

States of America, and admitted into the Union on an equal footing with the original States in all respects whatever. And the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning: *Provided*, That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be expected out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed.

SEC. 2. *And be it further enacted*, That until the next general apportionment of Representatives the State of Kansas shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 3. *And be it further enacted*, That nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance of said constitution of the people of Kansas, or in the resolutions thereto attached; but the following propositions are hereby offered to the said people of Kansas for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State University, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third, That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof. Fourth, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may

be to each, shall be granted to said State for its use, the same to be selected by the Governor thereof within one year after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, or for other purposes, as the Legislature shall direct: *Provided*, That the foregoing propositions hereinbefore offered are on the condition that the people of Kansas shall provide by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof. Sixth. And that the said State shall never tax the lands or the property of the United States in said State: *Provided, however*, That in case any of the lands herein granted to the State of Kansas have heretofore been confirmed to the Territory of Kansas for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

SEC. 4. *And be it further enacted*, That from and after the admission of the State of Kansas, as hereinbefore provided, all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Minnesota, shall be established; the judge, attorney, and marshal of the United States for the said district of Kansas shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal of the district of Minnesota; and in all cases of appeal or writ of error heretofore prosecuted, and now pending in the Supreme Court of the United States, upon any record from the supreme court of Kansas Territory, the mandate of execution or order of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Kansas, or to the supreme court of the State of Kansas, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Kansas Territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

SEC. 5. *And be it further enacted*, That the judge of the district court for the district of Kansas shall hold two regular terms of the said court annually, at the seat of government of the said State, to commence on the second Mondays of April and October in each year.

Approved, January 29, 1861.

CONSTITUTION OF KANSAS—1855 [a]

PREAMBLE

We, the people of the Territory of Kansas, by our delegates in convention assembled, at Topeka, on the 23d day of October, A. D. 1855, and of the independence of the United States the eightieth year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the province of Louisiana, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuits of happiness, do mutually agree with each other to form ourselves into a free and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning; and do ordain and establish the following constitution and bill of rights for the government thereof:

ARTICLE I

BILL OF RIGHTS

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit; and they have the right to alter, reform, or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the general assembly.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to

[a] This constitution was adopted at a convention which met at Topeka October 23, 1855, and completed its labors November 2, 1855. It was claimed that it was submitted to the people of Kansas and ratified December 15, 1855, receiving 1,731 votes against 46.

liberty and shall not be kept up; and the military shall be kept in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State, nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in cases of rebellion or invasion, the public safety requires it.

SEC. 9. All persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the Army and Navy, or in the militia, when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury. In any trial in any court, the party accused shall be allowed to appear and defend in person and with counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial, by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous is true and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action, or mesne or final process, unless in case of fraud.

SEC. 16. All courts shall be open; and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State.

SEC. 18. No power of suspending laws shall ever be exercised except by the general assembly.

SEC. 19. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 20. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigency imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public use, without toll or other charge therefor, a compensation shall be made to the owner in money; and in all other cases where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money, and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 21. No indenture of any negro, or mulatto, made and executed out of the bounds of the State shall be valid within the State.

SEC. 22. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated shall remain with the people.

ARTICLE II

ELECTIVE FRANCHISE

SECTION 1. In all elections by the people, the vote shall be by ballot, and in all elections in the general assembly the vote shall be *viva voce*.

SEC. 2. Every white male person, and every civilized male Indian who has adopted the habits of the white man, of the age of twenty-one years and upwards, who shall be at the time of offering to vote a citizen of the United States; who shall have resided and had his habitation, domicile, home, and place of permanent abode in the State of Kansas for six months next preceding the election at which he offers to vote; who, at such time, and for thirty days immediately preceding said time, shall have had his actual habitation, domicile, home, and place of permanent abode in the county in which he offers to vote, and who shall have resided in the precinct or election-district for at least ten days immediately preceding the election, shall be deemed a qualified elector at all elections under this constitution, except in elections by general ticket in the State or district prescribed by law, in which case the elector must have the aforesaid qualifications, but a residence in said district for ten days will entitle him to

vote: *Provided*, That no soldier, seaman, or marine, of the regular Army or Navy of the United States, shall be considered a resident of the State in consequence of being stationed within the same.

SEC. 3. The general assembly shall, at its first session, provide for the registration of all qualified electors in each county, and thereafter, from time to time, of all who may become qualified electors.

SEC. 4. The legislature shall have power to exclude from every office of honor, trust, or profit within the State, and from the right of suffrage, all persons convicted of any infamous crime.

SEC. 5. No person shall be deemed capable of holding or being elected to any post of honor, profit, trust, or emolument, civil or military, or exercise the right of suffrage under the government of this State, who shall hereafter fight a duel, send or accept a challenge to fight a duel, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or who shall be knowingly the bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State.

SEC. 6. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for and paid into the proper public treasury all sums for which he may be accountable.

SEC. 7. No State officer or member of the general assembly of this State shall receive a fee, be engaged as counsel, agent, or attorney in any case or claim against the State.

SEC. 8. No senator or representative shall, during the term of office for which he shall have been elected, be appointed to any civil office of profit in this State which shall have been created or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

SEC. 9. All officers, civil and military, in this State, before they enter upon the duties of their respective offices, shall take the following oath or affirmation: "I, ——— ———, do swear [or affirm] that I will support the Constitution of the United States and of the State of Kansas; that I am duly qualified according to the Constitution to exercise the office to which I have been elected, [or appointed,] and will, to the best of my abilities, discharge the duties thereof faithfully and impartially, according to law."

SEC. 10. Every person shall be disqualified from holding any office of honor or profit in this State who shall have been convicted of having given or offered any bribe to procure his election, or who shall have made use of any undue influence from power, tumult, or other improper practices.

SEC. 11. All civil officers of the State shall reside within the State, and all district and county officers within their respective districts and counties, and shall have their offices at such places therein as may be required by law.

SEC. 12. Returns of elections for members of Congress, the general assembly, and all other officers not otherwise provided for shall be made to the secretary of state, in such manner as may be prescribed by law.

SEC. 13. Electors shall in all cases be privileged from arrest during their attendance on elections, and in going to and returning therefrom, except in case of felony, treason, and breach of the peace.

Article III

DISTRIBUTION OF POWERS

SECTION 1. The powers of the government shall be divided into three separate departments, the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

Article IV

LEGISLATIVE

SECTION 1. The legislative power of this State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The senators and representatives shall be chosen annually, by the qualified electors of the respective counties or district for which they are chosen, on the first Monday of August, for one year, and their term of office shall commence on the first day of January next thereafter.

SEC. 3. There shall be elected at the first election twenty senators and sixty representatives, and the number afterwards shall be regulated by law.

SEC. 4. No person shall be eligible to the office of senator or representative who shall not possess the qualifications of an elector.

SEC. 5. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, postmasters, or officers of the militia.

SEC. 6. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rule of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its own members, and shall have all other powers necessary for its safety and the undisturbed transaction of business.

SEC. 7. Each house shall keep a journal of its proceedings and publish the same. The yeas and nays on any question shall, at the request of two members, be entered on the journal.

SEC. 8. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest and reason therefor shall, without alteration, commitment, or delay, be entered on the journal.

SEC. 9. All vacancies which may occur in either house shall, for the unexpired term, be filled by election as shall be prescribed by law.

SEC. 10. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

SEC. 11. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses, and presented to the governor for his approval.

SEC. 12. The doors of each house and of committees of the whole shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 13. Every bill shall be read by sections on three several days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rule on a call of the yeas and nays; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 14. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 15. In all cases when a general law can be made applicable, special laws shall not be enacted.

SEC. 16. No act shall ever be revived or amended by mere reference to its title; but the act revived or the section amended shall be set forth and published at full length.

SEC. 17. No act shall take effect until the same shall have been published and circulated in the counties of the State, by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 18. The election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this constitution or the Constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in this constitution, and in the election of the United States Senator, and in these cases the vote shall be taken *viva voce*.

SEC. 19. The general assembly shall not have power to enact laws annulling the contract of marriage in any case where, by law, the courts of this State may have power to decree a divorce.

SEC. 20. The general assembly shall not have power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings, arising out of a want of conformity with the laws of this State.

SEC. 21. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Kansas.*"

SEC. 22. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and, when sitting for the purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor and all other civil officers under the laws of this State shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. Within one year after the ratification of this constitution, and within every subsequent two years thereafter, for the term of ten years, an enumeration of all the white inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 25. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Tuesday of January, annually.

SEC. 26. All bills for raising revenue shall originate in the house of representatives, subject, however, to amendment or rejection as in other cases.

SEC. 27. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting, by the most usually traveled route; and no session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

ARTICLE V

EXECUTIVE

SECTION 1. The executive department shall consist of a governor, a lieutenant-governor, secretary of state, treasurer, auditor, and attorney-general, who shall be chosen by the electors of the State at the same time and place of voting for the members of the general assembly.

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney-general, and State printer shall hold their office for two years. Their terms of office shall commence on the first Tuesday of January next after their election, and continue until their successors are elected and qualified, neither of which officers shall be eligible for reëlection more than two out of three consecutive terms; nor shall any person be eligible for the office of governor who shall not have attained the age of thirty years.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government by the returning-officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open, publish, and declare the result thereof, in the presence of a majority of the members of both houses. The person having the highest number of votes shall be declared duly elected, and a certificate thereof given to such person, signed by the presiding officers of both bodies; but if any two or

more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. The supreme executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate, at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they were convened.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be commander-in-chief of the military in the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device of which shall be fixed upon by the governor and other State officers, be kept by the governor and used by him officially, and shall be called "The Great Seal of the State of Kansas."

SEC. 12. All grants and commissions shall be used in the name and by the authority of the State of Kansas, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other person holding office under the authority of this State or of the United States, shall execute the office of governor except as herein provided.

SEC. 14. In the case of death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor until another governor shall be duly qualified; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tempore* shall exercise the office of governor until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives, and in case of his death, impeachment, resignation, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 16. Should the office of secretary of state, treasurer, auditor, or attorney-general become vacant, for any of the causes specified in

the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed or a successor is elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services compensation to be fixed by law, which shall neither be increased or diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approve, he shall sign the same, but if he shall not approve, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which, likewise, it shall be reconsidered, and if approved by two-thirds of that house it shall be a law. But in such case, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevented its return, in which case it shall also be a law, unless sent back within two days after the next meeting.

SEC. 20. Contested elections for governor, lieutenant-governor, judges of the supreme court, and all other State officers, shall be determined by the general assembly, in such manner as may be prescribed by law.

SEC. 21. The general assembly shall have power to provide by law for the election of a surveyor-general, State geologist, and superintendent of common schools, whose duties shall be prescribed by law.

ARTICLE VI

JUDICIAL

SECTION 1. The judicial power of the State shall be vested in a supreme court, courts of common pleas, justices of the peace, and in such other courts inferior to the supreme court as the general assembly may establish.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall have such original and appellate jurisdiction as may be provided by law. It shall hold at least one term each year, at the seat of government, and such other terms as may be provided by law. The judges of the supreme court shall be elected by the electors of the State at large.

SEC. 3. The State shall be divided by the first general assembly under this constitution into three common-pleas districts of compact territory, bounded by county lines, and as nearly equal in population as practicable; and a judge for each district shall be chosen by the electors thereof, and their term of office shall be for three years.

SEC. 4. The courts of common pleas shall consist of one judge each, who shall reside within the district for which he is chosen during his continuance in office.

SEC. 5. The jurisdiction of the court of common pleas, and of the judges thereof, shall be fixed by law.

SEC. 6. A competent number of justices of the peace shall be elected by the electors in each township of the several counties. The term of office shall be three years, and their powers and duties shall be fixed by law.

SEC. 7. All judges, other than those provided for in the constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than three years.

SEC. 8. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold for the term of one year, one for the term of two years, and one for the term of three years, and at all subsequent elections the term of each of said judges shall be for three years.

SEC. 9. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor until a successor shall be elected and qualified; and such successor shall be elected for the residue of the unexpired term at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 10. The judges of the supreme court and of the courts of common pleas shall, at stated times, receive such compensation as may be provided by law, which shall not be increased or diminished during their term of office, but they shall receive no fees or perquisites, nor hold any other office of profit and trust under the State, other than a judicial office.

SEC. 11. The general assembly may increase or diminish the number of the judges of the supreme court, the number of the districts of the courts of common pleas, the number of judges in any district, or establish other courts whenever two-thirds of the members elected to each house shall concur therein, but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 12. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified.

SEC. 13. The general assembly shall provide, by law, for the speedy publication of the decisions of the supreme court made under this constitution.

SEC. 14. The supreme court shall, upon the decision of every case, give an opinion, in writing, of each question arising in the record in such case, and the decision of the court thereon.

SEC. 15. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years, and whose duties shall be prescribed by law.

SEC. 16. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 17. The several judges of the supreme court, of the court of common pleas, and of such other courts as may be created by law, shall respectively have and exercise such power and jurisdiction, at chambers or otherwise, as may be provided by law.

SEC. 18. The style of all process shall be, "The State of Kansas." All prosecutions shall be carried on in the name and by the authority of the State of Kansas; and all indictments shall conclude, "against the peace and dignity of the State of Kansas."

ARTICLE VII

EDUCATION

SEC. 1. The principal of all funds arising from the sale or other disposition of lands or other property granted or intrusted to this State for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school-funds of this State.

SEC. 3. The general assembly may take measures for the establishment of a university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts, science, medical and agricultural instruction.

SEC. 4. Provision may be made by law for the support of normal schools, with suitable libraries and scientific apparatus.

ARTICLE VIII

PUBLIC INSTITUTIONS

SEC. 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

SEC. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

SEC. 3. The respective counties of the State shall provide, in some suitable manner, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provisions to be made by the laws of the general assembly.

SEC. 4. The general assembly shall make provision for the establishment of houses of refuge for the correction, reform, and instruction of juvenile offenders.

SEC. 5. It shall be the duty of the general assembly to make provision, as soon as possible, for a State general hospital.

ARTICLE IX

PUBLIC DEBT AND PUBLIC WORKS

SEC. 1. No money shall be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never in the aggregate exceed one hundred thousand dollars, unless authorized by a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or repayment of the debts thereby created.

SEC. 5. No scrip, certificate, or other evidence of State debt whatever shall be, except for such debts as are authorized by the third and fourth sections of this article.

ARTICLE X

MILITIA

SEC. 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty years, except such as may be exempt by the laws of the United States, or of this State, and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.

SEC. 2. The governor shall appoint the adjutant, quartermaster, and commissary-general.

SEC. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than three years.

SEC. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all officers.

SEC. 5. The militia may be divided into classes, in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for such exemption, the amount to be prescribed by law.

SEC. 7. The first general assembly shall offer inducements for the formation, uniforming, and drilling independent volunteer companies in the different cities and counties of this State.

Article XI

FINANCE AND TAXATION

Section 1. The general assembly shall provide by law for a uniform and equal rate of assessment and taxation, and taxes shall be levied upon all such property, real and personal, as the general assembly may from time to time prescribe; but all property appropriated and used exclusively for municipal, literary, educational, scientific, or charitable purposes, and personal property to an amount not exceeding one hundred dollars for each head of a family, and all property appropriated and used exclusively for religious purposes, to an amount not exceeding two hundred thousand dollars, may by general laws be exempted from taxation.

Sec. 2. The general assembly shall provide by law for an annual tax sufficient to defray the estimated ordinary expenses of the State for each year.

Sec. 3. Every law imposing a tax shall state distinctly the object of the same to which it shall be applied.

Sec. 4. On the passage in either house of the general assembly of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust money, or releases, discharges, or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal, and three-fifths of all the members elected to such house shall in all such cases be required to constitute a quorum.

Article XII

COUNTY AND TOWNSHIP OFFICERS

Section 1. The general assembly shall provide by law for the election of county, city, town, and township officers.

Sec. 2. All officers whose election or appointment is not provided for by this constitution shall be elected by the people, or appointed as the general assembly may by law direct.

Sec. 3. Provision shall be made by law for the removal for misconduct, or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

Sec. 4. The legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

Article XIII

CORPORATIONS

Section 1. The general assembly shall not create corporations by special act except for municipal purposes.

Sec. 2. Corporations may be formed under general laws, but such laws may at any time be altered or repealed.

Article XIV

JURISPRUDENCE

Section 1. The general assembly, at its first session, shall constitute three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleadings, forms, and proceedings of the courts of record of this State, and to provide, so far as practicable and expedient, that justice shall be administered by intelligent and uniform proceedings without any distinction between law and equity.

Sec. 2. The proceedings of the commissioners shall be reported to the general assembly, and be subject to the action of that body.

Article XV

MISCELLANEOUS

Section 1. The first general assembly shall locate the permanent seat of government.

Sec. 2. Lotteries and the sale of lottery-tickets, for any purpose whatever, shall forever be prohibited in the State.

Sec. 3. No person shall be elected or appointed to any office in this State unless they possess the qualifications of an elector.

Sec. 4. There may be established in the secretary of state's office a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

Sec. 5. The first general assembly shall provide by law for securing to the wife the separate property acquired by her before or after coverture, and the equal right with the husband to the custody of the children during their minority; and in case of death, insanity, intemperance, or gross impropriety of the husband, their exclusive custody.

Article XVI

AMENDMENTS TO THE CONSTITUTION

Section 1. All propositions for amendments to the constitution shall be made by the general assembly.

Sec. 2. A concurrence of two-thirds of the members elected to each house shall be necessary, after which such proposed amendments shall be entered upon the journals with the yeas and nays, and the secretary of state shall cause the same to be published in at least one newspaper in each county in the State where a newspaper is published, for at least six months preceding the next election for senators and representatives, when such proposed amendments shall be again referred to the legislature elected next succeeding said publication. If passed by the second legislature, by a majority of two-thirds of the members elected to each house, such amendments shall be republished, as aforesaid, for at least six months prior to the next general election, at which election such proposed amendments shall be submitted to the people for their approval or rejection, and if the majority of the

electors voting at such election shall adopt such amendments the same shall become a part of the constitution.

SEC. 3. When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote upon each amendment separately.

SEC. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be by the general assembly made, before the year 1865, nor more than once in five years thereafter.

ARTICLE XVII

BANKS AND CURRENCY

SECTION 1. No banks shall be established otherwise than under a general banking-law.

SEC. 2. If the general assembly shall enact a general banking-law, such law shall provide for the registry and countersigning by the auditor of state of all paper-credit designed to be circulated as money, with ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver as shall be required, which collateral security shall be under the control of the proper officer or officers of state. Such law shall restrict the aggregate amount of all paper-credit to be circulated as money, and the aggregate amount to be put in circulation in any one year, and no note issued under the provision of this section shall be of a less denomination than ten dollars.

SEC. 3. The stockholders in every bank or banking company shall be individually liable, to an amount over and above their stock equal to their respective shares of stock, for all debts and liabilities of said bank or banking company.

SEC. 4. All bills or notes issued as money shall be at all times redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

SEC. 5. Holders of bank-notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

SEC. 6. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 7. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 8. The State shall not be a stockholder in any bank or banking institution.

SEC. 9. All banks shall be required to keep officers and proper offices for the issue and redemption of their paper, at some accessible and convenient point within the State.

SEC. 10. The said banking-law shall contain a provision reserving the power to alter, amend, or repeal said law.

SEC. 11. At the time of submitting this constitution to the electors for their approval or disapproval, the articles numbered, in relation to a general banking-law, shall be submitted as a distinct proposition, in the following form: General banking-law—yes or no; and if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution; otherwise it shall be void and form no part thereof.

SCHEDULE

In order that no inconvenience may arise from the organization and establishment of a State government, and that the wishes of the people may be fully accomplished, it is declared—

First. That no existing rights, suits, prosecutions, claims, and contracts shall be affected by a change in the form of government.

Second. That this constitution shall be submitted to the people of Kansas for ratification on the 15th day of December next.

Third. That each qualified elector shall express his assent or dissent to the constitution by voting a written or printed ticket, labelled "Constitution," or "No constitution," which election shall be held by the same judges and conducted under the same regulations and restrictions as is hereinafter provided for the election of members of the general assembly, and the judges therein named shall, within ten days after said election, seal up and transmit to the chairman of the executive committee of Kansas Territory the result of said election, who shall forthwith make proclamation of the same; and in case the constitution be ratified by the people, the chairman of the executive committee shall cause publication to be made by proclamation that an election will be held on the third Tuesday of January, A. D. 1856, for governor, lieutenant-governor, secretary of state, treasurer, auditor, judges of the supreme court, State printer, attorney-general, reporter of the supreme court, clerk of the supreme court, and members of the general assembly, which said election shall be held by the same judges, under the same restrictions and conducted in the same manner as is hereinafter provided for the election of members of the general assembly; and the judges herein named are hereby required, within ten days after said election, to seal up and transmit duplicate copies of the returns of said election to the chairman of the executive committee, one of which shall be laid before the general assembly at its first meeting.

Fourth. At the same time and place the qualified voters shall, under the same regulations and restrictions, elect a member of Congress, to represent the State of Kansas in the Thirty-fourth Congress of the United States; the returns of said election to be made to the chairman of the executive committee, who shall deposit the same in the office of the secretary of state, as soon as he shall enter upon the discharge of the duties of his office.

Fifth. The general assembly shall meet on the fourth day of March, A. D. 1856, at the city of Topeka, at 12 m., at which time and place the governor, lieutenant-governor, secretary of state, judge of the supreme court, treasurer, auditor, State printer, reporter and clerk of the supreme court, and attorney-general, shall appear, take the oath of office, and enter upon the discharge of the duties of their respective offices under this constitution, and shall continue in office in the same manner and during the same period they would have done had they been elected on the first Monday of August, A. D. 1856.

Sixth. Until otherwise provided by law, the State shall be divided into election-districts; and the senators and representatives shall be apportioned among the several districts as follows:

First district.—Commencing in the Kansas River at the mouth of Cedar Creek; thence up said river to the first tributary above the town of Lawrence; thence up said tributary to its source; thence by

a direct line to the west side of Johnson's house; thence by a due-south line to the Santa Fé road, and along the middle of said road to a point due south of the source of Cedar Creek; thence due north to the source of Cedar Creek, and down the same to the place of beginning.

Second district.—Commencing at the mouth of Big Spring Branch, on the south bank of the Kansas River; thence up said branch to its furthest source; thence by a southerly line, crossing the Wakarusa River on the east side of the house of Charles Matney, to the middle of the Sante Fé road; thence along the middle of said road to the line of the first district; thence by the same, along the west side of the house of ——— Johnson, to the head of the first tributary of the Kansas above the town of Lawrence; and thence by the same tributary to the Kansas River, and up the south bank of said river to the mouth of Big Spring Branch, the place of beginning.

Third district.—Commencing at the mouth of Big Spring Branch, on the south side of the Kansas River; thence up the same to its furthest source; thence by a southerly line to the north bank of the Wakarusa River, on the east side of the house of Charles Matney; thence up said river and its main branch to the line of the Pottawatomie reservation; and thence by the southern and western line of said reservation to the Kansas River, and down the said river to the place of beginning.

Fourth district.—Commencing at the Missouri State line, in the middle of the Santa Fé road; thence along the middle of said road to Rock Creek, near the 65th mile of said road; thence south to the line of the Shawnee reservation ceded by the treaty of 1854; thence due east, along the south line of said reservation and the north lines of the existing reservations of the Sacs and Foxes, the existing reservations of the Chippewas and Ottawas, and the reservations of the Piankeshaws, Weas, Peorias, and Kaskaskias, to the Missouri State line; thence up the Missouri State line to the place of beginning.

Fifth district.—Commencing at the Missouri State line at the southern boundary of the fourth district; thence west along the same to the northwest corner of the Sac and Fox reservation; thence due south along the west line thereof, and due south to the south branch of the Neosho River, about seventy miles above the Catholic Osage mission; thence down said river to the north line of the reserve for the New York Indians, and east along said line to the headwaters of Little Osage River, or the nearest point thereto; and thence down said river to the Missouri State line, and up said line to the place of beginning.

Sixth district.—Commencing on the Missouri State line in Little Osage River; thence up the same to the line of the reserve for the New York Indians, or the nearest point thereto; thence to and by the north line of said reserve to the Neosho River, and up said river and the south branch thereof to the head; and thence by a due-south line to the southern line of the Territory; thence by the southern and eastern lines of said Territory to the place of beginning.

Seventh district.—Commencing at the east side of the house of Charles Matney on the Wakarusa River; thence due south to the middle of the Santa Fé road; thence westwardly, along the middle of said road, to Rock Creek, near the 65th mile of said road; thence

due south to the north line of the Sac and Fox reservation; thence along the north and west line thereof, and due south, to the Neosho River; thence up said river to a point due south of the mouth of Elm Creek; thence due north to the mouth of Elm Creek, and up said creek to the Santa Fé road; and thence by a direct line in a northerly direction to the southwest corner of the Pottawatomie reservation; thence along the southern line of said reservation to the headwaters of the Wakarusa River, or the point nearest thereto; thence to and down the said river to the place of beginning.

Eighth district.—Commencing at the mouth of Elm Creek, one of the branches of Osage River; thence up the same to the Santa Fé road; thence by a direct northerly line to the southwest corner of the Pottawatomie reservation; thence up the western line thereof to Kansas River; thence up said river and the Smoky Hill Fork, beyond the most westerly settlements; thence due south to the line of the Territory; thence by the same to the line of the sixth district; thence due road; thence up said road to the north line of the Territory; thence down said river to the line of the seventh district; thence due north to the place of beginning.

Ninth district.—Commencing at Smoky Hill Fork, beyond the most westerly settlements; thence down the same and the Kansas River to the mouth of Wild Cat Creek; thence up said creek to the headwaters thereof; thence due north to the Independence emigrant road; thence up said road to the north line of the Territory; thence west, along the same, beyond the most westerly settlements; and thence due south to the place of beginning.

Tenth district.—Commencing at the mouth of Vermillion River; thence up the same beyond the house of Josiah D. Adams; thence due north to the Independence emigrant road; thence up the middle of said road to the line of the ninth district; thence by the same to the head of Wild Cat Creek, and down said creek to the Kansas River; thence down said river to the place of beginning.

Eleventh district.—Commencing in the Vermillion River, opposite the north side of the house of Josiah D. Adams; thence up said river to the head of the main branch; thence due north to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the crossing of the Vermillion Branch of the Blue; thence due north to the northern line of the Territory; thence west, along said line, to the Independence emigrant road; thence down said road to a point due west to the north end of the house of Josiah D. Adams, and due east to the place of beginning.

Twelfth district.—Commencing at the mouth of Soldier Creek, in the Kansas River; thence up said creek to the head of the main branch; thence due north to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the line of the eleventh district; thence due south to the head of Vermillion River, down Vermillion River to the mouth, and down Kansas River to the place of beginning.

Thirteenth district.—Commencing in the Kansas River, at a point three miles above the mouth of Stranger Creek; thence in a northwardly direction by a line corresponding to and three miles west of the several courses of said creek to the line of the Kickapoo reservation; thence by the southern and western line of said reservation to the military road from Fort Leavenworth to Fort Kearney; thence

along the middle of said road to the line of the twelfth district; thence due south to the head of Soldier Creek, down Soldier Creek to the mouth, and down Kansas River to the place of beginning.

Fourteenth district.—Commencing at the mouth of Independence Creek; thence up said creek to the head of the main branch, and thence due west to the line of the late Kickapoo reservation; thence north along said line and the line of the late Sac and Fox reservation to the north line of the Territory; thence along said line eastwardly to the Missouri River, and down said river to the place of beginning.

Fifteenth district.—Commencing at the mouth of Salt Creek on the Missouri River; thence up said creek to the military road, and along the middle of said road to the lower crossing of Stranger Creek; thence up said creek to the line of the late Kickapoo reservation, and thence along the southern and western line thereof to the line of the fourteenth district; thence by the same, and down Independence Creek to the mouth thereof, and thence down the Missouri River to the place of beginning.

Sixteenth district.—Commencing at the mouth of Salt Creek; thence up said creek to the military road; thence along the middle of said road to the lower crossing of Stranger Creek; thence up said creek to the line of the late Kickapoo reservation, and thence along the same to the line of the thirteenth district, and thence by the same, along a line corresponding to the source of Stranger Creek, and keeping three miles west thereof, to the Kansas River; thence down the Kansas River to the Missouri, and up the Missouri River to the place of beginning.

Seventeenth district.—Commencing at the mouth of the Kansas River; thence up the south bank thereof to the mouth of Cedar Creek; thence up Cedar Creek to its source; and thence due south to the Santa Fé road, along the middle of said road to the Missouri State line, and along said line to the place of beginning.

Eighteenth district.—Commencing in the military road at the crossing of the Vermillion branch of Blue River; thence due north to the line of the Territory; thence east, along said line, to the fourteenth district; thence due south along said line to the aforesaid military road, and along the middle of said road to the place of beginning.

Senatorial and representative district.—1st. The first election-district shall be entitled to three senators and eight representatives.

2d. The second election-district shall be entitled to one senator and three representatives.

3d. The third election-district shall be entitled to one senator and three representatives.

4th. The fourth and seventeenth election-districts shall constitute the fourth senatorial and representative district, and be entitled to one senator and two representatives.

5th. The fifth election-district shall be entitled to three senators and nine representatives.

6th. The sixth, seventh, and eighth election-districts shall constitute the sixth senatorial and representative district, and be entitled to two senators and five representatives.

7th. The ninth and tenth election-districts shall constitute the seventh senatorial district, and be entitled to one senator and four representatives.

8th. The eleventh and twelfth election-districts shall constitute the eighth senatorial and representative district, and be entitled to one senator and three representatives.

9th. The thirteenth election-district shall constitute the ninth senatorial and representative district, and be entitled to one senator and two representatives.

10th. The fourteenth and eighteenth election-districts shall constitute the tenth senatorial and representative district, and be entitled to two senators and seven representatives.

11th. The fifteenth election-district shall constitute the eleventh senatorial and representative district, and be entitled to one senator and five representatives.

12th. The sixteenth election-district shall constitute the twelfth senatorial and representative district, and be entitled to three senators and nine representatives.

Sec. 3. Until otherwise provided by law, the election in the several districts shall be held at the following places, and the following-named persons are hereby appointed as judges of the elections:

PLACES OF VOTING

Sec. 4. *First senatorial district.*—Lawrence precinct, at the Free State Hotel; A. D. Searle, Lyman Allen, Henry Bronson, judges.

Franklin precinct, at the store of Mr. Purdam; James McGee, Horace L. Enos, I. Purdam, judges.

Blanton precinct, at the house of J. B. Abbott; John Stewart, R. Vaughn, P. T. Hupp, judges.

Palmyra precinct, at the house of H. Barricklow; H. Barricklow, Louis Green, A. Pierson, judges.

Second senatorial district.—Bloomington precinct, at the house of H. Burson; Samuel Smith, Daniel Vancil, J. M. Dunn, judges.

Third senatorial district.—Washington precinct, at the house of W. R. Frost; W. Riley, Caleb Antram, Eli Allen, judges.

Tecumseh precinct, at the house of J. Taylor; Charles Jordan, John Morris, Francis Grassmuck, judges.

Topeka precinct, at the law-office of E. C. K. Garvey; Dr. F. L. Crain, Milton C. Dickey, J. F. Cummings, judges.

Brownsville precinct, at the house of G. W. Brown; G. W. Brown, Mr. Simmerwell, Dr. Bowen, judges.

Fourth senatorial district.—Prairie City precinct, at the house of Samuel Mewhenny; W. Moore, Samuel Workman, Amos Hanna, judges.

Mission precinct, at the Baptist mission building; G. L. Osborn, S. M. Cornautzer, Lewis Dougherty, judges.

Wakarusa precinct, at the store of Paschal Fish; L. H. Bascom, Ellis Bond, A. G. Green, judges.

Fifth senatorial district.—Osawatomie precinct, at the house of Samuel Geer; William Chestnut, B. Woodbury, William Sailing, judges.

Stanton precinct, at the house of Mr. Staniford; J. Woollard, Mr. Morse, W. G. Nichols, judges.

Pottawatomie precinct, at the meeting-house; F. Brown, J. Grant, S. B. Morse, judges.

Hampden precinct, at the house of W. A. Ela; W. A. Ela, Chauncey Morse, George Law, judges.

Sugar Creek precinct, at the house of Silas Young; Silas Young, James W. Dudley, William Dyer, judges.

Little Sugar Creek precinct, at the house of Isaac D. Stockton; I. D. Stockton, Thomas Sears, James Osborn, judges.

Little Osage precinct, at Miller's store; Thomas Osborn, Mr. Miller, Mr. Fawbus, judges.

Osage precinct, at the house of Thomas Polks; Mr. Wycoff, Mr. ———, Mr. ———, judges.

Sixth senatorial district.—Scott's Town precinct, at the house of Mr. Vandevre; T. Crabtree, Isaac Chatham, F. S. Froscel, judges.

Titus precinct, at the house of J. B. Titus, on the Santa Fé road; J. B. Titus, John Drew, W. Lord, judges.

Council Grove precinct, at the mission house; J. Goodell, G. H. Rees, B. Wright, judges.

Waubonsa precinct, at the house of John H. Nesbit, in Waubonsa; E. R. McCurdy, J. M. Bisby, D. B. Hiatt, judges.

Mill Creek precinct, at the house of J. E. Hoenick; J. E. Hoenick, ———, ———, judges.

Ashland precinct, at the house of ——— ———; Mr. Adams, ———, ———, judges.

Clark Creek precinct, at some suitable place near the junction of Clark and Humboldt Creeks; William McCready, Mr. Berry, Mr. Mitchell, judges.

Seventh senatorial district.—Pawnee precinct, at Loder & Shaw's store, in Pawnee; S. P. Higgins, W. M. McClure, L. Knapp, judges.

Big Blue precinct, at the house of S. B. Dyer, in Juniata; J. Stewart, S. D. Houston, J. T. Goodenow, judges.

Rock Creek precinct, at the house of Mr. Haitt; James Darnell, Charles Jenkins, Henry Remmell, judges.

Eighth senatorial district.—Black Vermillion precinct, at some suitable house in said precinct on the Vermillion Branch of the Blue River; John Shmidt, Mr. Hollingburg, Mr. Alvey, judges.

St. Mary's precinct, at the house of B. F. Bertrand; Dr. Palmer, C. Garrett, C. Dean, judges.

Silver Lake precinct, at some suitable house at Indianola; E. Kennedy, J. W. Hopkins, John G. Thompson, judges.

Ninth senatorial district.—Daton precinct, at the store of Bainter & Hoover; Lewis Hoover, Nathan Adams, G. B. Hall, judges.

Grasshopper Falls precinct, at the house of the mill company; S. H. Dunn, John W. Clark, J. B. Ross, judges.

Whitfield precinct, at the house of J. B. Chapman; Thomas Jenners, Vincent D. Cohee, James A. Gray, judges.

Tenth senatorial district.—California precinct, at the house of W. W. Moore; W. W. Moore, W. Jackson, judges.

Iowa Point precinct, at the house of Mr. McCall; Mr. Hanley, Mr. Pader, judges.

Voters on Independence and Deer Creeks will vote at Doniphan.

St. Jo. Bottom precinct, at the house of B. Harden; George Bryant, H. Smallwood, A. A. Jamison, judges.

Burr Oak precinct, at the house of Mr. Wilson; Mr. Brock, Mr. Wilson, Thomas McCulloch, judges.

Palermo precinct, at the house of R. Martin; John White, R. Ladd, N. White, judges.

Doniphan precinct, at Collins' Mill; David Lee, D. W. Fields, J. McNamee, judges.

Wolf River precinct, at the house of Mr. Searl: Mr. Searl, Mr. Ulse, Mr. Richardson, judges.

Eleventh senatorial district.—Kickapoo precinct, at some suitable house in Kickapoo City; Dr. McCormas, Mr. Zimmerman, Mr. Boyd, judges.

Port William precinct, at the house of Dr. Hathaway: Dr. Hathaway, Mr. Oliphant, Mr. Potter, judges.

Mount Pleasant precinct, at the house of M. A. Potter: Mr. Ridgway, B. Elliott, M. A. Potter, judges.

Oceana precinct, at the store of Crosby & Co.: Archibald Elliott, A. Landrum, S. J. H. Snyder, judges.

Atchinson precinct, at the house of Mr. Bay: R. Mecubbins, Mr. Bay, Henry Williams, judges.

Twelfth senatorial district.—Leavenworth precinct, at the office of Gardiner & Dodge; Adam Fisher, Thomas H. Doyle, Hide Hook, judges.

Easton precinct, at the house of T. A. Maynard; T. A. Maynard, G. J. Clark, Wm. Pennock, judges.

Wyandot precinct, at the council-house in Wyandot City: Abelard Guthrie, G. J. Clark, Ebenezer Lane, judges.

The executive committee of Kansas Territory is authorized to appoint additional precincts and judges therefor.

INSTRUCTIONS TO JUDGES

SEC. 7. The three judges will provide for each poll ballot-boxes for depositing the ballots cast by electors; shall appoint two clerks, all of whom shall be sworn or affirmed to discharge the duties of their respective offices impartially and with fidelity; and the judges and clerks shall have power to administer the oath or affirmation to each other; and the said judges shall open said election at 9 o'clock a. m., at the place designated in each precinct, and close the same at 6 o'clock p. m. In case any of the officers appointed fail to attend, the officer or officers in attendance shall supply their places, and in the event of all of them failing to attend, the qualified voters shall supply their places, and the said judges shall make out duplicate returns of said election, seal up and transmit the same within ten days to the chairman of the executive committee, one copy of which is to be laid before the general assembly. If, at the time of holding said election, it shall be inconvenient, from any cause whatever, that would disturb or prevent the voters of any election-precinct in the Territory from the free and peaceable exercise of the elective franchise, the officers are hereby authorized to adjourn said election into any other precinct in the Territory, and to any other day they may see proper, of the necessity of which they shall be the exclusive judges, at which time and place the qualified voters may cast their votes.

SEC. 8. Until otherwise provided by law, the chairman of the executive committee of Kansas Territory shall announce by proclamation the result of the election, and the names of persons elected to office.

SEC. 9. No person shall be entitled to a seat in the first general assembly at its organization except the members whose names are contained in the proclamation of the chairman of the executive committee, but after the general assembly is organized, seats may be contested in the usual way.

SEC. 10. Certificates of indebtedness may be issued by the territorial executive committee for all necessary expenses accruing in the formation of the State government, not exceeding twenty-five thousand dollars: *Provided*, No certificate shall be issued except for legitimate expenses. All claims shall be made in writing, and shall be numbered and kept on file in the secretary's office, and all certificates of indebtedness shall be signed by the president and secretary, and countersigned by the treasurer, and numbered to correspond with the number of the claim or bill for which it was issued. The certificate shall bear 10 per cent. interest per annum.

SEC. 11. The first general assembly shall provide by law for the redemption of the certificates of indebtedness issued under the provisions of the foregoing section.

SEC. 12. Until the great seal of the State of Kansas is agreed upon and procured, as provided for in the eleventh section of the fifth article of this constitution, the governor shall use his own private seal as the seal of state.

SEC. 13. At the election for the ratification of this constitution, and the first election for State officers, a representation in the Congress of the United States, and members of the general assembly of this State, an actual residence in the Territory of thirty days immediately preceding said election shall be sufficient as a qualification for the elector, and an actual residence of ninety days for the candidates: *Provided*, Said electors and candidates possess all the other qualifications required by the provisions of this constitution.

SEC. 14. The first legislature shall provide by law for the enforcement of the provisions of the sixth section of the bill of rights on or before the 4th day of July, 1857, as to all persons in the Territory before the adoption of this constitution, and as to all others the provisions of said section shall operate from and after the ratification of this constitution by the people.

J. H. LANE, *President.*

SAM. C. SMITH, *Secretary.*
CHAS. A. FOSTER, *Assistant Secretary.*

CONSTITUTION OF KANSAS—1857 [a]

PREAMBLE

We, the people of the Territory of Kansas, by our representatives in convention assembled, at Lecompton, in said Territory, on Monday, the fourth day of September, one thousand eight hundred and fifty-seven, and of the independence of the United States of America the

[a] This constitution was adopted at a convention which met at Lecompton, September 5, 1857, adjourned for a month, and completed its labors November 7, 1857. It was immediately forwarded to President Buchanan. The clause sanctioning slave holding was submitted to the people of Kansas, and ratified December 31, 1857, receiving 6,226 votes, against 589 votes. The entire constitution, with its conditional propositions, was submitted to the people of Kansas by its advocates and by its opponents, and each claimed the support of a majority. It was claimed that on the 21st of December, 1858, the constitution with slavery was ratified, receiving 6,143 votes, against 589 for the constitution without slavery; and it was also claimed that on the 4th of January, 1859, the constitution was rejected, receiving 138 votes for it with slavery, 24 votes for it without slavery, and 10,126 votes against it.

eighty-second year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution and by virtue of the treaty of cession by France to the United States of the province of Louisiana, made and entered into on the thirtieth day of April, one thousand eight hundred and three, and by virtue of, and in accordance with, the act of Congress passed March the thirtieth, one thousand eight hundred and fifty-four, entitled "An act to organize the Territories of Nebraska and Kansas," in order to secure to ourselves and to our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free, independent, and sovereign State, by the name and style of the State of Kansas, and do ordain and establish the following constitution for the government thereof:

Article I

BOUNDARIES

We do declare and establish, ratify and confirm, the following as the permanent boundaries of the said State of Kansas, that is to say: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

Article II

COUNTY BOUNDARIES

No county now established which borders upon the Missouri River, or upon either bank of the Kansas River, shall ever be reduced by the formation of new counties to less than twenty miles square; nor shall any other county now organized, or hereafter to be organized, be reduced to less than five hundred square miles.

Article III

DISTRIBUTION OF POWERS

The power of the government of the State of Kansas shall be divided into three separate departments—the executive, the legislative, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

Article IV

EXECUTIVE DEPARTMENT

Section 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for two years from the time of his installation.

Sec. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the speaker shall open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal, and having received the highest number of votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature in such manner as may be prescribed by law.

Sec. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, or from the time of the formation of this constitution, and shall not be capable of holding the office more than four years in any term of six years.

Sec. 4. He shall, at stated terms, receive for his services a compensation which shall be fixed by law, and shall not be increased or diminished during the term for which he shall be elected.

Sec. 5. He shall be commander-in-chief of the Army and Navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 6. He may require information in writing from officers in the executive department on any subject relating to the duties of their respective offices.

Sec. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or disease; and in case of a disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he may think proper, not beyond the next stated meeting of the legislature.

Sec. 8. He shall, from time to time, give to the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

Sec. 9. He shall take care that the laws be faithfully executed.

Sec. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines; and in cases of forfeitures, to stay the collection until the end of the next session of the legislature, and to remit forfeitures by and with the advice and consent of the senate. In cases of treason he shall have power to grant reprieves by and

with the advice and consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. All commissions shall be in the name and by the authority of the State of Kansas, be sealed with the great seal, and signed by the governor, and attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and the present seal of this Territory shall be the seal of the State until otherwise directed by the legislature.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. The secretary of state shall be elected by the qualified electors of the State, and shall continue in office during the term of two years, and until his successor is qualified. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, and shall perform such other duties as may be required by law.

SEC. 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at length upon their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house, it shall become a law; but in such case the votes of each house shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each house, respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 16. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except resolutions for the purpose of obtaining the joint action of both houses, and on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 17. A lieutenant-governor shall be elected at the same time and for the same term as the governor, and his qualifications and the manner of his election shall be the same in all respects.

SEC. 18. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor, and the legislature shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 19. The lieutenant-governor shall be the president of the senate, but shall have no vote except in the case of a tie, when he may

give the casting vote; and while acting as such shall receive a compensation equal to that allowed to the speaker of the house of representatives.

SEC. 20. A sheriff and one or more coroners, a treasurer and surveyor, shall be elected in each county by the qualified electors thereof, who shall hold their office for two years, unless sooner removed, except thata the coroner shall hold office until his successor be duly qualified.

SEC. 21. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of two years, unless sooner removed.

ARTICLE V

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority of this State shall be vested in a legislature, which shall consist of a senate and house of representatives.

SEC. 2. No person holding office under the authority of the United States, except postmasters, or any lucrative office under the authority of this State, shall be eligible to or have a seat in the legislature; but this provision shall not extend to township officers, justices of the peace, notaries public, or militia officers.

SEC. 3. No person who has been, or may hereafter be, convicted of a penitentiary offence, or of an embezzlement of the public funds, shall hold any office in this State; nor shall any person holding public money for disbursement or otherwise have a seat in the legislature, until he shall have accounted for and paid such money into the treasury.

SEC. 4. The members of the house of representatives shall be elected by the qualified electors, and shall serve for the term of two years from the close of the general election and no longer.

SEC. 5. The senators shall be chosen for the term of four years, at the same time, in the same manner, and at the same places as are herein provided for members of the house of representatives.

SEC. 6. At the first session of the legislature the senate shall, by lot, divide their senators into two classes; and the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year, so that one-half, as near as may be, may be chosen thereafter every two years for the term of four years.

SEC. 7. The number of senators shall not be less than thirteen nor more than thirty-three; and at any time when the number of senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as possible.

SEC. 8. The number of members of the house of representatives shall not be less than thirty-nine, nor more than one hundred.

SEC. 9. The style of the laws of this State shall be, "*Be it enacted by the legislature of the State of Kansas.*"

SEC. 10. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the con-

sent of two-thirds, may expel a member, but not a second time for the same offence. The names of the members voting on the question shall be spread upon the journal.

Sec. 11. Each house during the session may, in its discretion, punish by fine, imprisonment, or both, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, Such fine shall not exceed two hundred dollars, or such imprisonment shall not extend beyond the end of the session.

Sec. 12. Each house of the legislature shall keep a journal of its proceedings, and cause the same to be published as soon after the adjournment as may be provided by law.

Sec. 13. Neither house during the session of the legislature shall, without the consent of the other, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which they may be sitting.

Sec. 14. The senate, when assembled, shall choose its officers, and the house of representatives shall choose a speaker and its other officers, and each branch of the legislature shall be the judge of the qualifications, elections, and returns of its members.

Sec. 15. A majority of each house of the legislature shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner as each house may prescribe.

Sec. 16. Each member of the legislature shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the members are elected when such law passed.

Sec. 17. Bills may originate in either house, but may be altered, amended, or rejected by the other, and all bills shall be read by sections on three several days, except, on an extraordinary occasion, two-thirds of the members may dispense with such reading, but in no case shall a bill be passed without having once been read: and every bill having passed both houses shall be signed by the speaker and president in the presence of their respective houses.

Sec. 18. The legislature shall provide by law for filling all vacancies that may occur in either house by the death, resignation, or otherwise of any of its members.

Sec. 19. The doors of each house shall be open, except on such occasions as, in the opinion of the house, the public safety may require secrecy.

Sec. 20. Every law enacted by the legislature shall embrace but one subject, and that shall be expressed in its title, and any extraneous matter introduced in a bill which shall pass shall be void; and no law shall be amended by its title, but in such case the act or section amended shall be reënacted and published at length.

Sec. 21. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

Sec. 22. The legislature shall meet every two years at the seat of government.

Sec. 23. The legislature shall provide for an enumeration of inhabitants by law. An apportionment of representatives in the legislature shall be provided by law according to population, as nearly as may be.

SEC. 24. The legislature shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants or other persons laboring under legal disabilities, by special legislation, but by general laws shall confer such powers on the courts of justice.

SEC. 25. It shall be the duty of all civil officers of this State to use due diligence in the securing and rendition of persons held to service or labor in this State, either of the States or Territories of the United States; and the legislature shall enact such laws as may be necessary for the honest and faithful carrying out of this provision of the constitution.

ELECTION DISTRICTS

At the first election holden under this constitution for members of the State legislature, the representative and senatorial districts shall be as follows: The first representative district shall consist of Doniphan County, and be entitled to four representatives; the second, Atchison, four representatives; the third, Leavenworth, eight representatives; the fourth, Brown and Nemaha, one representative; the fifth, Calhoun and Pottawatomie, one representative; the sixth, Jefferson, two representatives; the seventh, Marshall and Washington, one representative; the eighth, Riley, one representative; the ninth, Johnson, four representatives; the tenth, Lykins, one representative; the eleventh, Linn, two representatives; the twelfth, Bourbon, two representatives; the thirteenth, McGee, Dorn, and Allen, one representative; the fourteenth, Douglas, five representatives; the fifteenth, Anderson and Franklin, one representative; the sixteenth, Shawnee, two representatives; the seventeenth, Weller and Coffee, one representative; the eighteenth, Woodson, Wilson, Godfrey, Greenwood, and Madison, one representative; the nineteenth, Breckenridge and Richardson, one representative; the twentieth, Davis, Wise, Butler, Hunter, and that portion of country west, one representative—in all, forty-four representatives. The first senatorial district shall be Doniphan County, and be entitled to one senator; the second, Atchison, one senator; the third, Doniphan and Atchison, one senator; the fourth, Leavenworth, three senators; the fifth, Brown, Nemaha, and Pottawatomie, one senator; the sixth, Riley, Marshall, Dickinson, and Washington, one senator; the sixth, Riley, Marshall, Dickinson, senator; eighth, Johnson, two senators; the ninth, Lykins, Anderson, and Franklin, one senator; the tenth, Linn, one senator; the eleventh, Bourbon and McGee, one senator; the twelfth, Douglas, two senators; the thirteenth, Shawnee, one senator; the fourteenth, Dorn, Allen, Wilson, Woodson, Godfrey, Greenwood, Madison, and Coffee, one senator; the fifteenth, Richardson, Davis, Wise, Breckenridge, Butler, Hunter, and all west of Davis, Wise, Butler, and Hunter, one senator; the entire number of senators, nineteen.

ARTICLE VI

JUDICIARY

SECTION 1. This judicial powers of this State shall be vested in one supreme court, circuit courts, chancery courts, courts of probate,

and justices of the peace, and such other inferior courts as the legislature may, from time to time, ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That the supreme court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give a general superintendence and control of inferior jurisdictions.

SEC. 3. There shall be held annually, at the seat of government, two sessions of the supreme court, at such times as the legislature may direct.

SEC. 4. The supreme court shall consist of one chief justice and two associate justices.

SEC. 5. The supreme court may elect a clerk and reporter, who shall respectively receive such compensation as the legislature may prescribe.

SEC. 6. The State shall be divided into convenient circuits, and for each circuit there shall be elected a judge, who shall, at the time of his election and as long as he continues in office, reside in the circuit for which he has been elected.

SEC. 7. The circuit courts shall have original jurisdiction of all matters, civil and criminal, within this State not otherwise excepted in this constitution; but in civil cases, only where the matter in controversy shall exceed the sum of one hundred dollars.

SEC. 8. A circuit court shall be held in each county in the State twice in every year, at such times and places as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other when they may deem it advisable, and shall do so when directed by law.

SEC. 9. The legislature may establish a court or courts of chancery with original and appellate equity jurisdiction, and until the establishment of such court or courts the said jurisdiction shall be vested in the judges of the circuit courts respectively; but the judges of the several circuit courts shall have power to issue writs of injunction returnable to the court of chancery.

SEC. 10. The legislature shall establish within each county in the State a court of probate for the granting of letters testamentary of the administration and orphans' business, and the general superintendence of the estates of deceased persons, and such other duties as may be prescribed by law; but in no case shall they have jurisdiction in matters of civil or criminal law.

SEC. 11. A competent number of justices of the peace in and for each county shall be elected in such mode and for such term of office as the legislature may direct. Their jurisdiction in civil matters shall be limited to cases in which the amount does not exceed one hundred dollars; and in all cases tried by justices of the peace the right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 12. The chief justice and associate justices of the supreme court, and judges of the circuit court and courts of chancery, shall, at stated times, receive for their services a compensation which shall be

fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees, no perquisites of office, nor hold any other office of profit or trust under this State, the United States or either of the other States, or any other power, during their continuance in office.

SEC. 13. The chief justice and associate justices of the supreme court shall be elected by the qualified voters of the whole State, the judges of the circuit courts by the qualified voters of their respective circuits, and the judges of the chancery courts shall be elected by the qualified voters of their respective chancery divisions, at such times and places as may be prescribed by law; but said election shall not be on the same day that the election of members of the legislature is held.

SEC. 14. All vacancies in the office of chief justice and associate justices of the supreme court, and judges of the circuit court, court of chancery, and probate court, shall be filled by appointment made by the governor for the time being, but the governor shall, immediately upon the receipt of information of a vacancy aforesaid, order an election to fill such vacancy, first giving sixty days' notice of such election.

SEC. 15. The chief justice and associate justices of the supreme court shall hold their offices for and during the period of six years from the date of their election, and until their successors shall be qualified, and provision shall be made by law for classifying those elected, so that the chief justice or one of the said associate justices of the supreme court shall be elected every two years. The judges of the circuit, chancery, and probate courts shall hold their offices for and during the term of four years from the date of their election, and until their successors shall be qualified.

SEC. 16. Clerks of the circuit courts and courts of probate shall be elected by the qualified electors in each county, and all vacancies in such office shall be filled in such manner as the law may direct.

SEC. 17. The chief justice and associate justices of the supreme court, by virtue of their offices, shall be conservators of the peace throughout the State, the judges of the circuit court throughout their respective circuits, and the judges of the inferior courts throughout their respective counties.

SEC. 18. The style of all process shall be, "The State of Kansas," and all prosecutions shall be carried on in the name and by the authority of the State of Kansas, and shall conclude "against the peace and dignity of the same."

SEC. 19. There shall be an attorney-general of the State, who shall be elected by the qualified voters thereof, and as many district attorneys as the legislature may deem necessary, to be elected by the qualified voters of their respective circuits, who shall hold their offices for the term of four years from the date of their election, and shall receive for their services such compensation as may be established by law, which shall not be diminished during their continuance in office.

SEC. 20. Vacancies occurring in the office of attorney-general, district attorneys, clerk of the circuit court, clerk of the court of probate, justices of the peace, and constables, shall be filled in such manner as shall be provided by law.

SEC. 21. The house of representatives shall have the sole power of impeachment.

SEC. 22. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 23. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and of disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VII

SLAVERY

SECTION 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever.

SEC. 2. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such emigrants: *And provided also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 3. In the prosecution of slaves for crimes of higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 4. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

ARTICLE VIII

ELECTIONS AND RIGHTS OF SUFFRAGE

SECTION 1. Every male citizen of the United States, above the age of twenty-one years, having resided in this State one year, and in the

county, city, or town in which he may offer to vote three months next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections. And every male citizen of the United States, above the age aforesaid, who may be a resident of the State at the time that this constitution shall be adopted, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the county in which he shall actually reside at the time of the election.

SEC. 2. All voting by the people shall be by ballot.

SEC. 3. Electors, during their attendance at elections, going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, and breach of the peace.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of his own, or of the United States, or of this State.

SEC. 6. No person employed in the military, naval, or marine service of the United States, stationed in this State, shall, by reason of his services therein, be deemed a resident of this State.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who shall not be possessed of the qualifications hereinbefore prescribed for an elector.

SEC. 8. The legislature shall have power to exclude from the privilege of voting, or being eligible to office, any person convicted of bribery, perjury, or other infamous crimes.

SEC. 9. The first general election in this State shall be held on the day and year provided by this constitution, and all general elections thereafter on the day and year provided by subsequent legislative enactment.

ARTICLE IX

FINANCE

SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall, from time to time, prescribe.

SEC. 2. The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the government for each year; and whenever the expenses of any one year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses for such ensuing year.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts, in the aggregate, shall never exceed five hundred thousand dollars. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein, and a vote of a majority of all the members elected to both houses shall be necessary to the passage of such law, and such law shall provide for an annual tax to be levied sufficient to pay the interest of such debt created, and such appropriation shall not be repealed, nor the taxes postponed, until the principal and interest of such debt shall have been wholly paid.

SEC. 4. The legislature may also borrow money for the purpose of repelling invasion, suppressing insurrection, and defending the State in time of war; but the money thus raised shall be applied exclusively to the purposes for which it was raised.

SEC. 5. No scrip, certificate, or other evidence of State debt shall be issued, except for such debts as are authorized by the third or fourth sections of this article.

SEC. 6. The property of the State and counties, both real and personal, and such other property as the legislature may deem necessary for school, religious, or charitable purposes, may be exempted from taxation.

SEC. 7. No money shall at any time be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 8. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the legislature.

ARTICLE X

REVENUE

SECTION 1. All bills for raising revenue shall originate in the house of representatives.

SEC. 2. Taxation shall be equal and uniform, and all property on which taxes shall be levied shall be taxed in proportion to its value, to be ascertained as directed by legislative enactment, and no one species of property shall be taxed higher than another species of property of equal value on which taxes shall be levied.

SEC. 3. The legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

SEC. 4. The legislature shall provide for the classification of the lands of this State into three distinct classes, to be styled respectively class one, two, three; and each of these classes shall have a fixed value in so much money, upon which there shall be assessed an *ad-valorem* tax.

SEC. 5. The legislature shall provide for a capitation or poll-tax, to be paid by every able-bodied male citizen over twenty-one years and under sixty years of age; but nothing herein contained shall prevent the exemption of taxable polls in cases of bodily infirmity.

SEC. 6. The legislature shall levy a tax on all railroad incomes, proceeding from gifts of public lands, at the rate of ten cents on the one hundred dollars.

SEC. 7. No lotteries shall be authorized by law as a source of revenue.

SEC. 8. Whatever donations of lands or money that may be received from the General Government by this State shall be regarded as a source of revenue subject to a compact made with the United States by special ordinance.

ARTICLE XI

PUBLIC DOMAIN AND INTERNAL IMPROVEMENT

SECTION 1. It shall be the duty of the legislature to provide for the prevention of waste and damage of the public land now possessed or

that may hereafter be ceded to the Territory or State of Kansas, and it may pass laws for the sale of any part or portion thereof, and, in such case, provide for the safety, security, and appropriation of the proceeds.

SEC. 2. A liberal system of internal improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the legislature, as soon as practicable, to ascertain by law proper objects of improvement, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may be appropriated for such improvements.

ARTICLE XII

CORPORATIONS

SECTION 1. Corporations may be formed under a general law, but the legislature may by special act create bodies-politic for municipal purposes, where the objects of the corporations cannot be attained under it; all general laws or special acts enacted under the provisions of this section may be altered, amended, or repealed by the legislature at any time.

SEC. 2. No corporation shall take private property for public use without first having the consent of the owner, or where the necessity thereof being first established by a verdict of a jury, and the value thereof assessed and paid.

SEC. 3. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses.

SEC. 4. The legislature may incorporate banks of deposit and exchange, but such banks shall not issue any bills, notes, checks, or other paper as money.

SEC. 5. The legislature may incorporate one bank of discount and issue, with not more than two branches: *Provided*, That the act incorporating the said bank and branches thereof shall not take effect until it shall be submitted to the people at the general election next succeeding the passage of the same, and shall have been approved by a majority of the electors voting at such election.

SEC. 6. The said bank and branches shall be mutually liable for each other's debts or liabilities for all paper-credits or bills issued representing money; and the stockholders in said bank or branches shall be individually responsible to an amount equal to the stock held by them for all debts or liabilities of said bank or branches, and no law shall be passed sanctioning, directly or indirectly, the suspension by said bank or its branches of specie payment.

SEC. 7. The State shall not be a stockholder in any bank, nor shall the credit of the State be given or loaned in aid of any person, association, or incorporation, nor shall the State become a stockholder in any corporation or association.

Article XIII

MILITIA

Section 1. The militia of this State shall consist of all the able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such citizens as are now, or hereafter may be, exempted by the laws of the United States or of this State.

Sec. 2. Any citizen whose religious tenets conflict with bearing arms, shall not be compelled to do militia duty in time of peace, but shall pay such an equivalent for personal services as may be prescribed by law.

Sec. 3. All militia officers shall be elected by the persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the legislature may from time to time direct and establish.

Article XIV

EDUCATION

Section 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, schools and the means of education shall be forever encouraged in this State.

Sec. 2. The legislature shall take measures to preserve from waste and damage such lands as have been, or hereafter may be, granted by the United States, or lands or funds which may be received from other sources, for the use of schools within this State, and shall apply the funds which may arise from such lands, or from any other source, in strict conformity with the object of the grant.

Sec. 3. The legislature shall, as soon as practicable, establish one common school (or more) in each township in the State, where the children of the township shall be taught gratis.

Sec. 4. The legislature shall have power to make appropriations from the State treasury for the support and maintenance of common schools whenever the funds accruing from the lands donated by the United States, or the funds received from other sources, are insufficient for that purpose.

Sec. 5. The legislature shall have power to pass laws for the government of all common schools within this State.

Article XV

MISCELLANEOUS

Section 1. Lecompton shall be the seat of government until otherwise directed by law, two-thirds of each house of the legislature concurring in the passage of such law.

Sec. 2. Every person chosen or appointed to any office under this State, before entering upon the discharge of its duties, shall take an oath or affirmation to support the Constitution of the United States, the constitution of this State, and all laws made in pursuance thereof, and faithfully to demean himself in the discharge of the duties of his office.

SEC. 3. The laws, public records, and the written, judicial, and legislative proceedings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 4. Aliens who are or who may hereafter become *bona fide* residents of this State, shall enjoy the same rights, in respect to the possession, inheritance, and enjoyment of property, as native-born citizens.

SEC. 5. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county voting on the question shall have voted in favor of its removal to such point.

SEC. 6. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property, and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 7. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 8. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

BILL OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and established, we declare—

1. That all freemen, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive separate public emoluments or privileges but in consideration of public services.

2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper.

3. That all persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience, and no person can of right be compelled to attend, erect, or support any place of worship or maintain any ministry against his consent. That no human authority can in any case whatever interfere with the rights of conscience, and that no preference shall ever be given to any religious establishment or mode of worship.

4. That the civil rights, privileges, or capacities of a citizen shall in nowise be diminished or enlarged on account of his religion.

5. That all elections shall be free and equal.

6. That the right of trial by jury shall remain inviolate.

7. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right.

8. The people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches, and no warrant to search any place, or to seize any person or thing, shall issue without probable cause, supported by oath or affirmation. In all criminal prosecutions the accused has a right to be heard by himself or counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witness or witnesses against him; to have compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictments or informations a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed. He shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

9. That no freeman shall be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

10. No person, for the same offence, shall twice be put in jeopardy of life, limb, or liberty, nor shall any person's property be taken or applied to the public use, unless compensation be made therefor.

11. That all penalties shall be reasonable, and proportionate to the nature of the offence.

12. No person shall be held to answer a capital or otherwise infamous crime, unless on the presentment or indictment of a grand jury, or by impeachment, except in cases of rebellion, insurrection, or invasion.

13. That no conviction shall work corruption of blood or forfeiture of estate.

14. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great, and the privileges of *habeas corpus* shall not be suspended unless when, in the case of rebellion, insurrection, or invasion, the public safety may require it.

15. That excessive bail shall in no case be required, nor excessive fines imposed.

16. That no *ex post facto* law, nor any law impairing the obligations of contracts, shall ever be made.

17. That forfeitures and monopolies are contrary to the genius of a republic, and shall not be allowed, nor shall any hereditary emolument, privileges, or honors ever be granted or conferred in the State.

18. That the citizens have a right, in a peaceable manner, to assemble together for their common good; to instruct their representatives, and to apply to those intrusted with the power of government for redress of grievances or other purposes, by address or remonstrance.

19. That the citizens of this State shall have a right to keep and bear arms for their common defence.

20. That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

21. The military shall be kept in strict subordination to the civil power.

22. Emigration to or from this State shall not be prohibited.

23. Free negroes shall not be permitted to live in this State under any circumstances.

24. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher power herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

SCHEDULE

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies-corporate, except the bill incorporating banks by the last territorial legislature, shall continue as if no such change had taken place, and all processes which may have issued under the authority of the Territory of Kansas shall be as valid as if issued in the name of the State of Kansas.

SEC. 2. All laws now of force in the Territory of Kansas which are not repugnant to this constitution shall continue and be of force until altered, amended, or repealed, by a legislature assembled under the provisions of this constitution.

SEC. 3. All fines, penalties, and forfeitures to the Territory of Kansas shall inure to the use of the State of Kansas.

SEC. 4. All recognizances heretofore taken shall pass to, and be prosecuted in, the name of the State of Kansas, and all bonds executed to the governor of the Territory, or to any other officer of the court in his or their official capacity, shall pass to the governor and corresponding officers of the State authority and their successors in office, and for the use therein expressed, and may be sued for and recovered accordingly; and all the estates or property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatever description, of the Territory of Kansas, shall inure to and vest in the State of Kansas, and be sued for and recovered in the same manner and to the same extent as the same could have been by the Territory of Kansas.

SEC. 5. All criminal prosecutions and penal actions which may have arisen before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment in the name of the State of Kansas. All actions at law and suits in equity which may be pending in the courts of the Territory of Kansas, at the time of a change from a territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 6. All officers, civil and military, holding their offices under authority of the Territory of Kansas, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 7. This constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official in-

formation has been received that it is approved by the same, by the admission of the State of Kansas as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State legislature at the seat of government, within thirty-one days after publication. Should any vacancy occur, by death, resignation, or otherwise, in the legislature, or other office, he shall order an election to fill such vacancy: *Provided, however*, In case of removal, absence, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties, and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention.

Before this constitution shall be sent to Congress, asking for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval, as follows: The president of this convention shall, by proclamation, declare that on the twenty-first day of December, one thousand eight hundred and fifty-seven, at the different election-precincts now established by law, or which may be established as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The president of this convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened, at such places as they may deem proper in their respective counties, at which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks, by them appointed. The ballots cast at said election shall be endorsed, "Constitution with slavery," and "Constitution with no slavery." One of said poll-books shall be returned within eight days to the president of this convention, and the other shall be retained by the judges of election and kept open for inspection. The president, with two or more members of this convention, shall examine said poll-books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the "Constitution with slavery," he shall immediately have the same transmitted to the Congress of the United States, as hereinbefore provided; but if, upon such examination of said poll-books, it shall appear that a majority of the legal votes cast at said election be in favor of the "Constitution with no slavery," then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with, and shall have transmitted the constitution, so ratified, (to Congress the constitution, so ratified,) to the Congress of the United States, as hereinbefore provided. In case of the failure of the president of this

convention to perform the duties imposed upon him the foregoing section, by reason of death, resignation, or otherwise, the same duties shall devolve upon the president *pro tempore*.

SEC. 8. There shall be a general election upon the first Monday in January, eighteen hundred and fifty-eight, to be conducted as the election provided for in the seventh section of this article, at which election there shall be chosen a governor, lieutenant-governor, secretary of state, State treasurer, and members of the legislature, and also a member of Congress.

SEC. 9. Any person offering to vote at the aforesaid election upon said constitution shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws.

SEC. 10. All officers appointed to carry into execution the provisions of the foregoing sections shall, before entering upon their duties, be sworn to faithfully perform the duties of their offices, and in failure thereof be subject to the same charges and penalties as are provided in like cases under the territorial laws.

SEC. 11. The officers provided for in the preceding sections shall receive for their services the same compensation as given to officers performing similar duties under the territorial laws.

SEC. 12. The governor and all other officers shall enter upon the discharge of their respective duties as soon after the admission of the State of Kansas as one of the independent and sovereign States of the Union, as may be convenient.

SEC. 13. Oaths of office may be administered by any judge, justice of the peace, or clerk of any court of record of the Territory or the State of Kansas, until legislature may otherwise direct.

SEC. 14. After the year one thousand eight hundred and sixty-four, whenever the legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each house concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the house of representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the representatives; said delegates so elected shall meet within three months after said election for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves.

SEC. 15. Until the legislature elected in accordance with the provisions of this constitution shall otherwise direct, the salary of the governor shall be three thousand dollars, and the salary of lieutenant-governor shall be double the pay of a State senator, and the pay of members of the legislature shall be five dollars per diem, until otherwise provided by the first legislature, which shall fix the salaries of all officers other than those elected by the people at first election.

SEC. 16. This constitution shall take effect and be in force from and after its ratification by the people, as hereinbefore provided.

Done in convention at Lecompton, in the Territory of Kansas, on the seventh day of November, in the year of our Lord one thousand

eight hundred and fifty-seven, and of the Independence of the United States of America the eighty-second. In testimony whereof we have hereunto subscribed our names.

J. Calhoun, *President.*

Charles J. McIlvaine, *Secretary.*

ORDINANCE

Whereas the government of the United States is the proprietor, or will become so, of all or most of the lands lying within the limits of Kansas, as determined under this constitution; and whereas the State of Kansas will possess the undoubted right to tax such lands for the support of her State government, or for other proper and legitimate purposes connected with her existence as a State:

Now, therefore, be it ordained by this convention, on behalf of and by the authority of the people of Kansas, that the right aforesaid to tax such lands shall be, and is hereby, forever relinquished, if the conditions following shall be accepted and agreed to by the Congress of the United States:

Section 1. That sections numbered 8, 16, 24, and 36, in every township in the State, or in case either of said numbered sections are or shall be otherwise disposed of, that other lands, equal thereto in value and as contiguous as may be, shall be granted to the State, to be applied exclusively to the support of common schools.

Sec. 2. That all salt-springs, and gold, silver, copper, lead, or other valuable mines, together with the lands necessary for their full occupation and use, shall be granted to said State for the use and benefit of said State, and the same shall be used or disposed of under such terms and conditions and regulations as the legislature of said State shall direct.

Sec. 3. That 5 per centum of the proceeds of the sales of all public lands sold or held in trust or otherwise lying within the said State, whether sold before or after the admission of the State into the Union, after deducting all expenses incidental to the same, shall be paid to the said State of Kansas for the purpose following, to wit: two-fifths to be disbursed under the direction of the legislature of the State for the purpose of aiding the construction of railroads within said State, and the residue for the support of common schools.

Sec. 4. That seventy-two sections, or two entire townships, shall be designated by the President of the United States, which shall be reserved for the use of a seminary of learning, and appropriated by the legislature of said State solely to the use of said seminary.

Sec. 5. That each alternate section of land now owned, or which may hereafter be acquired by the United States, for twelve miles on each side of a line of railroad to be established or located from some point on the northern boundary of the State, leading southerly through said State in the direction of the Gulf of Mexico, and on each side of a line of railroad to be located and established from some point on the Missouri River westwardly through said State in the direction of the Pacific Ocean, shall be reserved and conveyed to said State of Kansas for the purpose of aiding in the construction of said railroad, and it shall be the duty of the Congress of the United States, in conjunction with the proper authorities of this State, to adopt immediate measures for carrying the several provisions herein contained into full effect.

CONSTITUTION OF KANSAS—1858 [a]

MEMORIAL

The delegates of the people of Kansas, in convention assembled, do respectfully memoralize Congress for admission into the Union, with the accompanying constitution:

ORDINANCE

By the authority of the people of Kansas, be it ordained by this convention, irrevocably, that the State of Kansas will never, without the consent of Congress, interfere with the title of the United States to the public domain, or unsold lands within the limits of said State, or the primary right of the United States to dispose of the same, or with any regulation which Congress may prescribe for securing the title thereof to purchasers in good faith; and also that no tax or other assessment shall be imposed upon the lands belonging to the United States: *Provided*, That the conditions following shall be accepted and agreed to by the Congress of the United States: *First*. The sections numbered sixteen and thirty-six in every township, including Indian reserve or trust lands, in said State (and where either of such sections, or any part thereof, has been sold, or otherwise alienated or appropriated, other lands, equivalent thereto, as nearly contiguous as possible) shall be granted to the said State exclusively for the use of common schools. *Second*. That seventy-two sections of land shall be set apart and reserved for the use and support of four district colleges, to be located in the four equal divisions of the State; said lands to be selected by the governor of the State, subject to the approval of the Commissioner of the General Land-Office. *Third*. That thirty-six sections of land, to be selected by the governor of said State, shall be granted to said State for the purpose of the erection of public buildings at the seat of government, and the erection of buildings for the various public benevolent institutions created by the State constitution. *Fourth*, That the salt-springs, and gold, silver, copper, lead, or other valuable mines, not exceeding twelve in number, with six sections of land adjacent, shall be granted to the said State, to be selected, used, or alienated, as may hereafter be prescribed by law. *Fifth*. That 5 per centum of the net proceeds of the sales of public lands within said State, sold by Congress after the admission of said State into the Union, shall be paid to the said State for the purpose of creating a common-school fund, the principal to be held sacred, and the interest to be applied to the education of the children of Kansas. *Sixth*. That each alternate section of land now owned, or which may hereafter be acquired by the United States, lying for six miles in width on each side of the following lines of railroads, shall be granted by Congress to the State of Kansas: 1st. Commencing on the Missouri State line, at some point south of the fourth standard parallel line, and traversing Southern

[a] This constitution was adopted at a convention which met at Mineola March 23, 1858, adjourned to Leavenworth March 23, 1858, and completed its labors April 3, 1859. It was claimed that it was submitted to the people of Kansas third Tuesday of May, A. D. 1858, and ratified, receiving 4,346 votes against 1,257 votes.

Kansas westwardly; 2d. Commencing at some point on the Missouri River or Missouri State line, and traversing Central Kansas westwardly; 3d. Commencing at some point on Missouri River, and traversing Northern Kansas westwardly; 4th. Commencing at some point on the Missouri River, and running southerly in the direction of the Gulf of Mexico: *Provided*, That should the alternate sections along the lines of said railroads be disposed of, an equal number of sections shall be selected from any other public lands contiguous to said railroads; said lands to be reserved and conveyed to the State, for the purpose of aiding in the construction of said railroads, under such rules and restrictions as may hereafter be prescribed by law. The Congress of the United States, in conjunction with the proper authorities of this State, may adopt the necessary measures for carrying the several provisions herein contained into effect.

PREAMBLE

We, the people of the Territory of Kansas, grateful to Almighty God for our freedom, by our delegates in convention assembled, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the province of Louisiana, believing that the time has arrived when our present political condition should cease and the right of self-government be asserted, in order to secure to ourselves and our posterity all the rights of life, liberty, and property, and the free pursuit of happiness, ordain the following constitution as the organic law of a free and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence, following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

Article I

BILL OF RIGHTS

Section 1. All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety; and the right of all men to the control of their persons exists prior to law, and is inalienable.

Sec. 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit, and they alone have the right at all times to alter, reform, or abolish their form of government in such manner as they may think proper. No special privileges or

immunities shall ever be granted by the general assembly which may not be altered, revoked, or repealed by the same authority.

Sec. 3. The people have the right to assemble in a peaceable manner to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

Sec. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be kept up, and the military shall be in strict subordination to the civil power.

Sec. 5. The right of trial by jury shall be inviolate, and extend to persons of every condition.

Sec. 6. There shall be no slavery in this State, and no involuntary servitude, unless for the punishment of crime, whereof the parties shall have been duly convicted.

Sec. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of religious belief; but nothing herein contained shall be so construed as to dispense with oaths or affirmations. Religious morality and knowledge, however, being essential to good government, it shall be the duty of the legislature to make suitable provisions for the protection of all religious denominations in the peaceable enjoyment of their modes of worship, and for the encouragement of schools and the means of instruction.

Sec. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of invasion or rebellion, the public interest require it.

Sec. 9. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

Sec. 10. Except in cases of impeachment, and in cases arising in the Army or Navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless upon presentment or indictment of a grand jury. In any trial in any court, the accused shall be allowed to appear and defend in person or by counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person be compelled in any criminal case to be a witness against himself, or twice put in jeopardy for the same offence.

Sec. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions for libel the truth of

the charge may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the accused shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same, and no conviction in this State shall work a corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action or mesne or final process, except in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred in this State.

SEC. 18. No power of suspending laws shall be exercised except by the general assembly.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigencies imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public without charge, a just compensation shall be made to the owners in money; and in all other cases where private property shall be taken for public uses, a compensation therefor shall first be made in money, or first secured by depositing money, and such compensation shall be estimated by a jury without deduction for benefits to any property of the owner.

SEC. 20. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 21. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

SEC. 22. No indenture of any persons made and executed out of the bounds of the State shall be valid within the State.

ARTICLE II

ELECTIVE FRANCHISE

SECTION 1. In all elections not otherwise provided for by this constitution, every male citizen of the United States, of the age of twenty-one years or upwards, who shall have resided in the State six months next preceding such election, and ten days in the precinct in which he may offer to vote, and every male person of foreign birth

of the age of twenty-one years or upwards, and who shall have resided in the United States one year, in this State six months, and in the precinct in which he may offer to vote ten days next preceding such election, and who shall have declared his intention to become a citizen of the United States ten days preceding such election, shall be deemed a qualified elector.

SEC. 2. No soldier, seaman, or marine, in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in this State in consequence of being stationed within the same, nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 3. No person shall be deemed to have lost his residence in this State by reason of his absence either on business of this State or the United States.

SEC. 4. Every person shall be disqualified from holding office during the term for which he may have been elected who shall have given or offered a bribe or reward to procure his election.

SEC. 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of this State to fight a duel, shall be ineligible to any office of trust or profit in this State.

SEC. 6. The general assembly shall have the power to deprive of the right of suffrage and to render ineligible to office any person convicted of an infamous crime.

SEC. 7. No person holding a lucrative office or appointment under the Constitution or laws of the United States, or of this State, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided*, That offices in the militia to which there is attached no annual salary, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative.

SEC. 8. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for and paid into the proper treasury all sums for which he may be accountable.

SEC. 9. Any person who shall commit a fraud tending to affect the result of any election in this State shall, on conviction thereof, be forever ineligible as an elector.

ARTICLE III

DISTRIBUTION OF POWERS

SECTION 1. The powers of the government shall be divided into three separate departments: the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

Article IV

LEGISLATURE

Section 1. The legislative power of the State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

Sec. 2. The senators and representatives shall be chosen annually, by the qualified electors of the respective counties or districts for which they are chosen, on the Tuesday next after the first Monday in November. Their terms of office shall be one year, and shall commence on the first day of January next after their election.

Sec. 3. There shall be elected at the first election twenty-five senators and seventy-five representatives, and the number afterwards shall be regulated by law; and the general assembly shall, in all apportionments for members of the legislature, establish single representative and single senatorial districts.

Sec. 4. No person shall be eligible to the office of senator or representative who shall not at the time of his election possess the qualifications of an elector.

Sec. 5. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rules of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elected to the house, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its own members, and have all other powers necessary to secure its safety and the undisturbed transaction of its business.

Sec. 6. Each house shall keep a journal of its proceedings, which shall be published. The yeas and nays shall, at the request of two members, be taken and entered on the journal.

Sec. 7. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest and reason therefor shall, without alteration, commitment, or delay, be entered on the journal.

Sec. 8. All vacancies which may occur in either house shall, for the unexpired term, be filled by election, as shall be prescribed by law.

Sec. 9. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

Sec. 10. A majority of all the members elected to each house voting in the affirmative shall be necessary to pass a bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses and presented to the governor for his approval.

Sec. 11. The doors of each house and of committees of the whole shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 12. Every bill shall be read by sections in each house on three several days, except in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules on a call of the yeas and nays; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final passage of every bill and joint resolution shall be taken by yeas and nays, and entered on the journal.

SEC. 13. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 14. In all cases where a general law can be made applicable, special laws shall not be enacted.

SEC. 15. No act shall ever be revived or amended by mere reference to its title, but the act revived or the section amended or revived at full length.

SEC. 16. No general act shall take effect until the same shall have been published and circulated in the counties of the State by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 17. The election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this constitution or the Constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in this constitution and in the election of the United States Senators, and in these cases the vote shall be taken *viva voce*.

SEC. 18. The general assembly shall not have power to enact special laws annulling the contract of marriage.

SEC. 19. The general assembly shall not have power to pass retroactive laws, or laws impairing the obligation of contracts, but may, by general laws, authorize the courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings arising out of a want of conformity with the laws of this State.

SEC. 20. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Kansas.*"

SEC. 21. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and, when sitting for this purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 22. The governor and all other civil officers under the laws of this State shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust, or profit under the laws and constitution of this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 23. Within one year after the ratification of this constitution, and within two years subsequently, for the term of ten years, an

enumeration of all the inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 24. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Monday of January annually.

SEC. 25. All bills for raising revenue shall originate in the house of representatives.

SEC. 26. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting by the usually-travelled route; and no regular sessions of the general assembly, except the first, under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

SEC. 27. Every bill or resolution shall, before its final passage, be printed for the use of the general assembly.

ARTICLE V

EXECUTIVE

SECTION 1. The executive department shall consist of a governor, a lieutenant-governor, secretary of state, treasurer of state, auditor of state, and attorney-general, who shall be chosen by the electors of the State at the same time and place of voting as for the members of the general assembly.

SEC. 2. The term of office of the governor, lieutenant-governor, treasurer, auditor, secretary of state, and attorney-general, shall commence on the first day of January next after their election, and shall continue for two years, and until their successors are elected and qualified. No person shall be eligible for the above offices more than two out of three consecutive terms.

SEC. 3. The returns of every election for the officers named in the preceding section shall be sealed up and transmitted to the seat of government by the returning officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open and canvass them, and publish and declare the result thereof in the presence of a majority of the members of both houses. The persons having the highest number of votes shall be declared duly elected, and a certificate thereof given to such persons, signed by the presiding officers of both houses; but if any two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a vote of the two houses of the general assembly in joint session.

SEC. 4. The executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state in such proclamation the purpose for which they are convened; and the general assembly shall enter upon no legislative business except that for which they were especially called together.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be commander-in-chief of the military in the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor, under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device for which shall be agreed upon by the general assembly, and which shall be kept by the governor and used by him officially, and shall be called "The Seal of the State of Kansas."

SEC. 12. All grants and commissions shall be issued in the name and by the authority of the State of Kansas, sealed with the seal thereof, signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other persons holding office under the authority of this State or of the United States, shall execute the duties of governor, except as herein provided.

SEC. 14. In case of the death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor until another governor shall be duly qualified or the disability be removed; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability, shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tempore* shall exercise the office of governor, until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives, and in case of his death, resignation, impeachment, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 16. Should the office of secretary of state, auditor of state, treasurer of state, or attorney-general, become vacant, for any of the causes specified in the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services compensation to be fixed by law, which shall

neither be increased or diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approves, he shall sign the same, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at large upon the journal and proceed to reconsider the bill. If, after such reconsideration, a majority of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and, if approved by a majority of that house, it shall be a law; but in such case the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return, in which case it shall not be a law.

ARTICLE VI

JUDICIAL

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, county courts, justices of the peace, and in such other courts inferior to the supreme court as may be established in the manner hereinafter provided.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall hold at least one term in each year, at the seat of government, and such other terms, there or elsewhere, as may be required by law.

SEC. 3. The judges of the supreme court shall be elected by the electors of the State at large, at the first election under this constitution. The term of one of said judges shall be two years, of another four years, of another six years; and at all subsequent elections the term of each of said judges shall be six years.

SEC. 4. The judge having the shortest term to serve, not holding by appointment, shall be chief justice.

SEC. 5. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court.

SEC. 6. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years.

SEC. 7. The circuit courts shall each consist of one judge. The State shall be divided into judicial circuits, and a judge for each circuit shall be elected by the voters thereof. He shall, while in office, reside in the circuit for which he is chosen, and his term of office shall be three years.

SEC. 8. Until otherwise provided by law, there shall be five judicial circuits, as follows: The first, comprising the counties of Leaven-

worth, Jefferson, Atchison, and Brown; the second, the counties of Calhoun, Nemaha, Pottawatomie, Marshall, Riley, Washington, and Clay; the third, the counties of Shawnee, Douglas, Johnson, Lykins, Franklin, and Weller; the fourth, the counties of Linn, Bourbon, Coffey, Anderson, Allen, Woodson, Dorr, and McGee; the fifth, the counties of Richardson, Breckenridge, Madison, Greenwood, Godfrey, Hunter, Butler, Wise, Davis, and Dixson.

SEC. 9. The general assembly may provide by law that the judge of one circuit may hold the courts of another circuit in case of necessity or convenience.

SEC. 10. The county courts shall each consist of one judge, who shall be elected by the voters of each county, who shall reside in the county, and his term of office shall be two years.

SEC. 11. A sufficient number of justices of the peace shall be elected by the voters of each township of the several counties. Their term of office shall be two years.

SEC. 12. All judges, other than those hereinbefore provided for, shall be elected by the electors of the judicial district over which their jurisdiction may extend, but not for a term of office longer than six years.

SEC. 13. The jurisdiction of the supreme court, the circuit courts, the county courts, the justices of the peace, and such other courts as may be created, shall be fixed by law; and the judges of the courts shall, respectively, have and exercise such power and jurisdiction at chambers as may be provided by law.

SEC. 14. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have notice thereof and an opportunity to be heard.

SEC. 15. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor shall be elected for the residue of the unexpired term, at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 16. The compensation of the judges of the supreme court and the circuit courts shall not be increased or diminished during their term of office, and they shall receive no fees or perquisites, nor hold any office of profit and trust under the State other than a judicial office.

SEC. 17. The general assembly may at any time increase the number of the judges of the supreme court, may increase or diminish the number of the judicial circuits, or change the circuits, or may establish other courts by a law passed by two-thirds of the members elected to each house; but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 18. There shall be elected in each county, by the electors thereof, one clerk of the courts, who shall hold his office for the term of two years, and until his successor shall be elected and qualified. He shall be clerk of the county court and the circuit court in the county in which he is chosen.

SEC. 19. There shall be elected in each county, by the voters thereof,

one county attorney, who shall hold his office for the term of two years, and until his successor shall be elected and qualified.

Sec. 20. The duties, compensation, fees, and perquisites of the officers provided for in this article shall be fixed by law.

Sec. 21. The style of all process shall be "The State of Kansas." All prosecutions shall be carried on in the name and by the authority of the State of Kansas, and all indictments shall conclude "against the peace and dignity of the State of Kansas."

Article VII

EDUCATION

Section 1. The stability and perpetuity of free republican institutions depend upon the intelligence and virtue of the people; therefore, it is declared to be the duty of the State to establish by law, at the earliest possible period, a uniform system of free schools, in which every child in the State shall be entitled to receive a good common-school education at the public expense.

Sec. 2. The principal of all school-funds, from whatever source, shall be the common property of the State, and may be increased, but shall forever be preserved inviolate and undiminished.

Sec. 3. The income of the school-fund shall be devoted exclusively to the support of schools, and, together with any funds raised in any other manner for school purposes, shall be distributed through the county or township treasurer to the several school districts, in some equitable proportion, to the number of children and youth resident therein between the ages of five and twenty-one years.

Sec. 4. The school-lands shall never be sold until such sale is authorized by a free and fair vote of the people of Kansas, but, subject to valuation every three years, may be leased at a per centum established by law.

Sec. 5. No religious sect or sects shall ever have any right to, or control of, any part of the school-funds of this State.

Sec. 6. The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school-fund, will secure throughout the State the maintenance of a thorough and uniform system of common schools, which shall be kept up and supported in each district at least four months in each year, and shall be open and free to every child in the State between the ages of five and twenty-one years.

Sec. 7. As the means of the State will admit, educational institutions of a higher grade shall be established by law, so as to form a complete system of public instruction, embracing the primary, normal, preparatory, collegiate, and university departments.

Sec. 8. At the first election of State officers, and biennially thereafter, the people shall elect a superintendent of public instruction, whose duties and compensation shall be prescribed by law.

Sec. 9. At the first election of State officers, and biennially thereafter, there shall be elected by the people a commissioner of school-funds, who shall have the charge of the school-lands and the principal of the school-fund, whose duties and compensation shall be prescribed by law.

Article VIII

PUBLIC INSTITUTIONS

Section 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

Sec. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

Sec. 3. The general assembly shall make provision for the establishment of houses of refuge, for the correction, reform, and instruction of juvenile offenders.

Sec. 4. It shall be the duty of the general assembly to make provision, as soon as possible, for a State hospital and a State penitentiary: *Provided*, That not more than one of the aforesaid institutions shall be located in any county of this State, the location to be determined by a vote of the electors at large at any general election, and that the directors and superintendents of the same shall be elected by the people.

Sec. 5. The respective counties of the State shall provide in some suitable manner for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provision to be made by the laws of the general assembly.

Article IX

MILITIA

Section 1. The governor shall be the commander-in-chief of the military forces of the State, excepting when these forces shall be actually in the service of the United States, and shall have power to call out any part or the whole of said military forces to aid in the execution of the laws, to suppress insurrection, and to repel invasion.

Sec. 2. All male citizens of this State between the ages of eighteen and forty-five years, excepting those who are conscientiously opposed to bearing arms and such others as may be by law exempted, shall be enrolled in the militia, and held to perform such military duty as by law may be required.

Sec. 3. The general assembly shall provide by law for organizing and disciplining the militia in such manner as it shall deem expedient.

Article X

PUBLIC DEBT

Section 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

Sec. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

Sec. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars, unless authorized by

a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized or repayment of the debt thereby created.

SEC. 5. No scrip, certificate, or other evidence of State debt whatever shall be issued, except for such debts as are authorized by the third and fourth sections of this article.

ARTICLE XI

FINANCE AND TAXATION

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore the general assembly shall never levy a poll-tax for county or State purposes.

SEC. 2. Laws shall be passed taxing, by a uniform rule, all real and personal property, according to its true value in money; but burying-grounds, school-houses, and other property used exclusively for educational purposes, houses used exclusively for public worship, not exceeding fifty thousand dollars in value, institutions of public charity, public and municipal property used exclusively for public and municipal purposes, and personal property to an amount not exceeding in value two hundred dollars for each head of a family, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal, and the value of all such property so exempted shall, from time to time, be ascertained and published as may be directed by law.

SEC. 3. The general assembly shall provide for raising revenue sufficient to defray the expenses of the State for each year; and also a sufficient sum to pay the interest and such part of the principal of a State debt, if any such debt shall accrue, as may be directed by law.

SEC. 4. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 5. The State shall never contract any debt for purposes of internal improvements.

SEC. 6. In the passage in either house of the general assembly of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust moneys, or to release, discharge, or commute a claim or demand of the State, the vote shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house shall, in all such cases, be requisite to constitute a quorum.

Article XII

COUNTIES AND COUNTY AND TOWNSHIP OFFICERS

Section 1. The general assembly shall provide by law for submitting to the people of each county, at an annual election, the question of the location of county-seats; and the general assembly may change the lines of counties, but shall, by law, submit such proposed alterations to the electors of the county or counties affected thereby at a general election; said alterations to be made to township-lines as far as practicable.

Sec. 2. The general assembly shall provide by law for the creation and election of county, city, town, and township officers.

Sec. 3. All officers whose election or appointment is not provided for by this constitution shall be elected by the people, or appointed as the general assembly may by law direct.

Sec. 4. Provision shall be made by law for the removal, for misconduct or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

Sec. 5. The legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

Article XIII

ELECTIONS

Section 1. All elections shall be free and equal.

Sec. 2. Electors shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

Sec. 3. All elections by the people shall be by ballot, and all elections by the general assembly, or by either branch thereof, shall be *viva voce*.

Sec. 4. All general elections shall be held on the Tuesday next succeeding the first Monday in November of each year.

Sec. 5. Returns of elections for members of Congress, the general assembly, and all other officers not otherwise provided for, shall be made to the secretary of state, in such manner as may be prescribed by law.

Article XIV

CORPORATIONS

Section 1. Corporations may be created under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts authorizing or creating corporations may be altered from time to time or repealed.

Sec. 2. Dues from corporations shall be secured by such individual liability of the stockholders and other means as shall be prescribed by law, and each stockholder of a corporation or joint-stock association, except corporations for charitable purposes and railroad corporations, shall be individually liable over and above the stock by

him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

Sec. 3. The property of corporations, except for charitable and religious purposes, now existing and to be hereafter created, shall be subject to taxation the same as the property of individuals.

Sec. 4. All real estate or other property of religious corporations shall vest in trustees, whose election shall be by the members of such corporation.

Sec. 5. The general assembly shall provide for the organization of cities and villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuses of such power.

Sec. 6. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued, in all courts the same as natural persons.

Article XV

JURISPRUDENCE

Section 1. The general assembly, at its first session under this constitution, shall constitute a commission, to consist of three persons not members of the senate or house of representatives, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleading, and proceeding in the courts of record of this State, abolishing the forms of action known to the common law, and distinctions as to form between proceedings at law and in equity.

Sec. 2. The proceedings of the commissioners shall be reported to and be subject to the action of the general assembly.

Sec. 3. All the proceedings of the courts of this State shall be instituted and conducted in the English language, avoiding, as far as practicable, the use of technical terms.

Article XVI

MISCELLANEOUS

Section 1. No person shall be taken, imprisoned, or disseized of his freehold, outlawed, exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers and the law of the land.

Sec. 2. The printing of the laws and journals, bills, legislative documents, and papers for each branch of the general assembly, and all printing for the executive and other departments of State, shall be let to the lowest responsible bidder by such officers, and in such manner as shall be prescribed by law.

Sec. 3. The general assembly shall provide by law for the protection of the rights of women, married and single, in the acquiring and possessing of property, real, personal, and mixed, separate and apart from the husband or other person; and shall also provide for the equal rights of women in the protection, with the husband, of their children during their minority; also shall provide for the securing

of a homestead, which, without the consent of the wife, she cannot be divested of.

SEC. 4. No person shall be elected or appointed to any office in this State unless he possesses the qualifications of an elector at the time of his election or appointment.

SEC. 5. There shall be established, in the secretary of state's office, a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

SEC. 6. Lotteries, gift-enterprises, and the sale of lottery and gift-enterprise tickets, for any purpose whatever, shall be forever prohibited in the State.

SEC. 7. A homestead of one hundred and sixty acres of land, or in lieu thereof a house and lot, or other property not exceeding in value two thousand dollars, belonging to any one family, shall by law be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife in cases where that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for its purchase.

SEC. 8. This State shall have jurisdiction concurrent with the State of Missouri on the Missouri River, so far as the said river may be the common boundary of the two States.

SEC. 9. For the purpose of preserving the public health, shall have power to pass general sanitary laws.

SEC. 10. No lease or grant of agricultural land for a longer period than twelve years, hereafter to be made, in which shall be reserved any rent or service of any kind, shall be valid; and all fines, quarter sales, or other like restraints upon transfer, reserved in any lease of land, hereafter to be made, shall be void: *Provided*, That this article shall in nowise interfere with the disposition of the school-lands of the State.

SEC. 11. In all cases where it shall be necessary to sell any of the lands granted by Congress, said sales shall not be made without one year's notice, through publication in the county or counties where the lands lie, and an advertisement in two or more central newspapers of the State, and there shall be a valuation of said lands by disinterested persons, and no lands shall be sold at a less price than the valuation.

ARTICLE XVII

BANKS AND CURRENCY

SECTION 1. No bank shall be established otherwise than under a general banking-law.

SEC. 2. If the general assembly shall enact a general banking-law, such law shall provide for the registry and countersigning, by the auditor of the State, of all bank-notes or paper-credits designed to be circulated as money.

SEC. 3. It shall be further provided that such bank-notes or paper-credits shall be amply secured by the deposit, with the proper officer of state, of bonds of interest-paying States or the United States.

Sec. 4. All bills or notes issued as money shall be at all times redeemable in gold or silver.

Sec. 5. Holders of bank-notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

Sec. 6. The State shall not be a stockholder in any bank or banking institution.

Sec. 7. All banks shall be required to keep officers and proper offices, for the issue and redemption of their paper, at some convenient point within the State.

Sec. 8. Any general banking-law passed by the general assembly of this State may at any time be altered, amended, or repealed.

Sec. 9. No general banking-law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State, at some general election, and have been approved by a majority of all the votes given on that subject at such election.

Article XVIII

AMENDMENTS

Section 1. Propositions for the amendment of this constitution may be made by either branch of the general assembly; and if three-fifths of all the members elected to each house shall concur therein, such proposed amendments shall be entered on the journals, with the yeas and nays; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published for three months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments at said election shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

Sec. 2. Whenever three-fifths of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the general assembly for or against a convention; and if a majority of the electors voting on said amendments at said election shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

Sec. 3. Whenever three-fifths of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the general assembly for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the general assembly shall, at its next regular session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, and shall be chosen in the same

manner, and shall meet within three months after their election at the capital of the State, for the purpose aforesaid.

SEC. 4. At the general election to be held in the year one thousand eight hundred and sixty-three, and in each tenth year thereafter, the question, "Shall there be a convention to revise, alter, or amend the constitution?" shall be submitted to the electors of the State; and in case a majority of the electors voting at said election shall decide in favor of a convention, the general assembly, at its next regular session, shall provide by law for the election of delegates and the assembling of such convention, as provided in the preceding section; but no amendment or revision of this constitution, agreed upon by any convention in pursuance of this article, shall take effect until the same shall have been submitted to the electors of the State, and adopted by a majority of those voting thereon.

SCHEDULE

SECTION 1. In order that no inconvenience may arise from the change from a territorial to a State government, it is declared that no existing rights, suits, prosecutions, (except for political offences,) claims, or contracts, shall be affected by a change in the form of government, except as otherwise declared in this constitution. But no debt of the Territory shall be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the general assembly.

SEC. 2. This constitution shall be submitted to a vote of the people, for approval or rejection, on the third Tuesday of May, one thousand eight hundred and fifty-eight. The vote shall be by ballot, and those in favor of the constitution shall write or print on their ballots the words "For the constitution," and those opposed to the constitution shall write or print upon their ballots the words "Against the constitution." Said election shall be conducted according to the provisions of section thirteen of an act of the legislature of the Territory of Kansas, passed February —, one thousand eight hundred and fifty-eight, entitled "An act to provide for the election of delegates to a convention to frame a State constitution."

SEC. 3. At the same time and place, and under the provisions of the section aforesaid, an election shall be held for members of the general assembly, for State officers, for judges, and for members of Congress to represent the State of Kansas in the Thirty-fifth Congress of the United States.

SEC. 4. If this constitution, upon being submitted to the people, shall be approved by a majority of the legal votes cast thereon, a copy of the same, certified by the president and secretary of the convention, together with the memorial framed by the convention, asking admission into the Union, and a certified statement of the vote on the ratification thereof, shall be transmitted as soon as practicable by the governor, president of the council, and speaker of the house of representatives of the Territory of Kansas, or any two of them, to the President and Congress of the United States.

SEC. 5. Provided this constitution shall be ratified by the people, then, upon the admission of Kansas into the Union as a State, this constitution shall be in full force, the State officers shall immediately enter upon the performance of their duties, and the governor shall immediately, by proclamation, convene the general assembly.

SEC. 6. The members of the first general assembly shall hold their offices until and including December 31, one thousand eight hundred and fifty-nine.

SEC. 7. The State officers and supreme and district judges first elected under the constitution shall hold their respective offices for the same length of time as though their term of office commenced on January 1, one thousand eight hundred and fifty-nine.

SEC. 8. The governor is authorized to adopt a seal, to be the seal of the State of Kansas, until otherwise provided for by law.

SEC. 9. Until otherwise provided for by law, the State shall be divided into senatorial districts, and senators appointed to them as follows: The first district shall consist of Leavenworth County, and shall be entitled to three senators; the second district shall consist of Atchison County, and shall be entitled to one senator; the third district shall consist of Doniphan County, and shall be entitled to two senators; the fourth district shall consist of Jefferson County, and be entitled to one senator; the fifth district shall consist of the counties of Brown and Calhoun, and shall be entitled to one senator; the sixth district shall consist of the counties of Nemaha, Marshall, and Washington, and shall be entitled to one senator; the seventh district shall consist of the counties of Pottawatomie and Richardson, and shall be entitled to one senator; the eighth district shall consist of the counties of Riley, Clay, Dickson, Arapahoe, and all the western part of Kansas not otherwise attached, and shall be entitled to one senator; the ninth district shall consist of the counties of Breckenridge, Wise, and Davis, and shall be entitled to one senator; the tenth district shall consist of the counties of Shawnee and Weller, and shall be entitled to two senators; the eleventh district shall consist of the counties of Butler, Hunter, Woodson, Greenwood, Madison, Godfrey, and Wilson, and shall be entitled to one senator; the twelfth district shall consist of the county of Coffey, and shall be entitled to one senator; the thirteenth district shall consist of the county of Douglas, and shall be entitled to two senators; the fourteenth district shall consist of the county of Johnson, and be entitled to one senator; the fifteenth district shall consist of the county of Lykins, and be entitled to one senator; the sixteenth district shall consist of the county of Franklin, and be entitled to one senator; the seventeenth district shall consist of the county of Anderson, and be entitled to one senator; the eighteenth district shall consist of the county of Linn, and shall be entitled to one senator; the nineteenth district shall consist of the county of Bourbon, and shall be entitled to one senator; the twentieth district shall consist of the counties of Allen, Dorn, and McGee, and shall be entitled to one senator.

SEC. 10. The State shall be divided into representative districts, and members apportioned thereto as follows: First district, Leavenworth County, ten members; second, Atchison, three; third, Doniphan, five; fourth, Jefferson, three; fifth, Brown, two; sixth, Nemaha, two; seventh, Pottawatomie, two; eighth, Calhoun, one; ninth, Marshall and Washington, one; tenth, Riley, three; eleventh, Clay and Dickinson, one; twelfth, Davis, one; thirteenth, Wise, one; fourteenth, Butler and Hunter, one; fifteenth, Richardson, one; sixteenth, Breckenridge, two; seventeenth, Madison, one; eighteenth, Greenwood, one; nineteenth, Woodson, one; twentieth, Coffey, two; twenty-first, Weller, one; twenty-second, Shawnee, four; twenty-third, Douglas, seven; twenty-fourth, Johnson, three; twenty-fifth, Lykins,

three; twenty-sixth, Linn, three; twenty-seventh, Franklin, two; twenty-eighth, Anderson, two; twenty-ninth, Allen, one; thirtieth, Bourbon, three; thirty-first, McGee, Dorn, Wilson, and Godfrey, one; district number thirty-two, to consist of all the western part of Kansas not otherwise attached, including the county of Arapahoe, one member.

SEC. 11. The general assembly, at its first session, shall provide for receiving proposals for the location of the seat of government, and shall publish such proposals, and also a plan for the purchase of a site by the State, and submit them to a full and fair vote of the people at the first general election after such session; and if no proposal or plan submitted shall receive a majority of all the votes cast, then they shall be submitted at each subsequent and general election until such choice shall be made; and when a proposal or plan shall be adopted, the legislature shall provide for the location at the place or in the manner designated, and for the application of the profits which may accrue to the State therefrom, to the support of the benevolent institutions of the State; and when the seat of government shall have been thus located, it shall not be changed but by a law ratified by a direct vote of the people; and until the selection provided for in this section shall be made, Topeka shall be the seat of government.

SEC. 12. The first general assembly shall provide by law for the submission of the question of universal suffrage to a vote of the people at the first general election of the members of the general assembly: *Provided*, That the qualifications of voters at the election shall be the same as at the vote on the submission of the constitution.

I hereby certify that the above is a correct copy of the constitution adopted by the convention at Leavenworth, April 3, 1858, from the original draft now in my possession.

M. F. CONWAY, *President.*

Attest:
SAM'L F. TAPPAN, JR., *Secretary.*

CONSTITUTION OF KANSAS—1859 *

Adopted at Wyandotte July 29, 1859; ratified by the people October 4, 1859; went into operation January 29, 1861; with all amendments adopted prior to January 1, 1905, and also those which will be voted on in November, 1906.

PREAMBLE—BOUNDARIES

WE, THE PEOPLE OF KANSAS, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this constitution of the State of Kansas, with the following boundaries, to wit: Beginning at a point on the western boundary of the state of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth

* Verified by "The Constitution of the State of Kansas. Adopted at Wyandotte July 29, 1859. Ratified by the People October 4, 1859. Went into Operation January 29, 1861. With all Amendments Adopted prior to January 1, 1905; also those to be voted on in November, 1906. Topeka: State Printing Office. 1905." 32 pp.

meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of north latitude; thence east on said parallel to the western boundary of the state of Missouri; thence south, with the western boundary of said state, to the place of beginning.

BILL OF RIGHTS

SECTION 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

SEC. 3. The people have the right to assemble in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this state; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 7. The right to worship God, according to the dictates of conscience, shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of, or interference with the rights of conscience be permitted, nor any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any election; nor shall any person be incompetent to testify on account of religious belief.

SEC. 8. The right to the writ of *habeas corpus* shall not be suspended, unless the public safety requires it in case of invasion or rebellion.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offenses, where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SEC. 10. In all prosecutions, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him, to meet the witness face to face, and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offense.

SEC. 11. The liberty of the press shall be inviolate: and all persons may freely speak, write or publish their sentiments on all subjects,

being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted.

SEC. 12. No person shall be transported from the state for any offense committed within the same; and no conviction in the state shall work a corruption of blood or forfeiture of estate.

SEC. 13. Treason shall consist only in levying war against the state, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

SEC. 14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant; nor in time of war, except as prescribed by law.

SEC. 15. The right of the people to be secure in their persons and property against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons or property to be seized.

SEC. 16. No person shall be imprisoned for debt except in cases of fraud.

SEC. 17. No distinction shall ever be made between citizens of the state of Kansas and the citizens of other states and territories of the United States in reference to the purchase, enjoyment or descent of property. The rights of aliens in reference to the purchase, enjoyment or descent of property may be regulated by law.[a]

SEC. 18. All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.

SEC. 19. No hereditary emoluments, honors or privileges, shall ever be granted or conferred by the state.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE 1

EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction; who shall be chosen by the electors of the state at the time and place of voting for members of the legislature, and shall hold their offices for the term of two years from the second Monday of January next after their election, and until their successors are elected and qualified.

SEC. 2. Until otherwise provided by law,[b] an abstract of the returns of every election for the officers named in the foregoing section shall be sealed up and transmitted by the clerks of the boards of canvassers of the several counties to the secretary of state, who with the lieutenant-governor and attorney-general shall constitute a board of

[a] Adopted November, 1888.
[b] See Laws of 1868; also Gen. Stat. 1901, art. 3, p. 554.

state canvassers, whose duty it shall be to meet at the state capital on the second Tuesday of December succeeding each election for state officers, and canvass the vote for such officers and proclaim the result; but in case any two or more have an equal and the highest number of votes, the legislature shall by joint ballot choose one of said persons so having an equal and the highest number of votes for said office.

SEC. 3. The supreme executive power of the state shall be vested in a governor, who shall see that the laws are faithfully executed.

SEC. 4. He may require information in writing from the officers of the executive department upon any subject relating to their respective duties.

SEC. 5. He may on extraordinary occasions convene the legislature by proclamation, and shall at the commencement of every session communicate in writing such information as he may possess in reference to the condition of the state, and recommend such measures as he may deem expedient.

SEC. 6. In case of disagreement between the two houses in respect to the time of adjournment, he may adjourn the legislature to such time as he may think proper, not beyond its regular meeting.

SEC. 7. The pardoning power shall be vested in the governor under regulations and restrictions prescribed by law.

SEC. 8. There shall be a seal of the state, which shall be kept by the governor, and used by him officially, and which shall be the great seal of Kansas.

SEC. 9. All commissions shall be issued in the name of the state of Kansas, signed by the governor, countersigned by the secretary of state, and sealed with the great seal.

SEC. 10. No member of Congress, or officer of the state, or of the United States, shall hold the office of governor, except as herein provided.

SEC. 11. In case of the death, impeachment, resignation, removal or other disability of the governor, the power and duties of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the president of the senate.

SEC. 12. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president *pro tempore* to preside in case of his absence or impeachment, or when he shall hold the office of governor.

SEC. 13. If the lieutenant-governor while holding the office of governor shall be impeached or displaced, or shall resign, or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 14. Should either the secretary of state, auditor, treasurer, attorney-general, or superintendent of public instruction, become incapable of performing the duties of his office, for any of the causes specified in the thirteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election

at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

SEC. 15. The officers mentioned in this article shall at stated times receive for their services a compensation, to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 16. The officers of the executive department, and of all public state institutions, shall at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature.

ARTICLE 2

LEGISLATIVE

SECTION 1. The legislative power of this state shall be vested in a house of representatives and senate.

SEC. 2. The number of representatives and senators shall be regulated by law, but shall never exceed one hundred and twenty-five representatives and forty senators. From and after the adoption of this amendment the house of representatives shall admit one member for each county in which at least two hundred and fifty legal votes were cast at the next preceding general election; and each organized county in which less than two hundred legal votes were cast at the next preceding general election shall be attached to and constitute a part of the representative district of the county lying next adjacent to it on the east.[a]

SEC. 3. The members of the legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile traveled by the usual route in going to and returning from the place of meeting; but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member, as per diem allowance for the first session held under this constitution, nor more than one hundred and fifty dollars for each session thereafter, nor more than ninety dollars for any special session.

SEC. 4. No person shall be a member of the legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

SEC. 5. No member of Congress or officer of the United States shall be eligible to a seat in the legislature. If any person after his election to the legislature, be elected to Congress or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

SEC. 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the legislature.

SEC. 7. All state officers before entering upon their respective duties, shall take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of this state, and faithfully to discharge the duties of their respective offices.

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[a]Adopted November, 1873; see also Gen. Stat. 1901, ch. 4, p. 70.

SEC. 8. A majority of each house shall constitute a quorum. Each house shall establish its own rules, and shall be judge of the elections, returns and qualifications of its own members.

SEC. 9. All vacancies occurring in either house shall be filled for the unexpired term by election.

SEC. 10. Each house shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal, upon the final passage of every bill or joint resolution. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

SEC. 11. Any member of either house shall have the right to protest against any act or resolution; and such protest shall without delay or alteration be entered on the journal.

SEC. 12. Bills may originate in either house, but may be amended or rejected by the other.[a]

SEC. 13. A majority of all the members elected to each house, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

SEC. 14. Every bill and joint resolution passed by the house of representatives and senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor; if he approve, he shall sign it; but if not, he shall return it to the house of representatives, which shall enter the objections at large upon its journal and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the senate, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected, it shall become a law; but in all such cases the vote shall be taken by yeas and nays, and entered upon the journals of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the governor, it shall become a law in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return, in which case it shall not become a law. If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items, while approving the other portion of the bill; in such case he shall append to the bill, at the time of signing it, a statement of the item or items to which he objects, and the reasons therefor, and shall transmit such statement, or a copy thereof, to the house of representatives, and any appropriations so objected to shall not take effect unless reconsidered and approved by two-thirds of the members elected to each house, and, if so reconsidered and approved, shall take effect and become a part of the bill, in which case the presiding officers of each house shall certify on such bill such fact of reconsideration and approval.[b]

SEC. 15. Every bill shall be read on three separate days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may if deemed expedient suspend the rules; but the reading of the bill by sections on its final passage, shall in no case be dispensed with.

SEC. 16. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived or

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[a]Adopted November, 1864. [b]Adopted November, 1904.

amended unless the new act contain the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed.

SEC. 17. All laws of a general nature shall have a uniform operation throughout the state; and in all cases where a general law can be made applicable, no special law shall be enacted.[a]

SEC. 18. All power to grant divorces, is vested in the district courts, subject to regulation by law.

SEC. 19. The legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature shall be in force until the same be published. It shall have the power to provide for the election or appointment of all officers and the filling of all vacancies not otherwise provided for in the constitution.

SEC. 20. The enacting clause of all laws shall be, "Be it enacted by the legislature of the state of Kansas;" and no law shall be enacted except by bill.

SEC. 21. The legislature may confer upon tribunals transacting the county business of the several counties, such powers of local legislation and administration as it shall deem expedient.

SEC. 22. For any speech or debate in either house the members shall not be questioned elsewhere. No member of the legislature shall be subject to arrest—except for felony or breach of the peace—in going to, or returning from, the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

SEC. 23. The legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

SEC. 24. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law, and no appropriation shall be for a longer term than two years.[b]

SEC. 25. All sessions of the legislature shall be held at the state capital, and beginning with the session of eighteen hundred and seventy-seven, all regular sessions shall be held once in two years, commencing on the second Tuesday of January of each alternate year thereafter.[c]

SEC. 26. The legislature shall provide for taking an enumeration of the inhabitants of the state at least once in ten years. The first enumeration shall be taken in A. D. 1865.

SEC. 27. The house of representatives shall have the sole power to impeach. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

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[a] The legislature of 1905 has authorized the submission of the following as a substitute for section 17, which will be voted on in November, 1906:

"All laws of a general nature shall have a uniform operation throughout the state; and in all cases where a general law can be made applicable no special law shall be enacted; and whether or not a law enacted is repugnant to this provision of the constitution shall be construed and determined by the courts of this state."

[b] Adopted November, 1876.

[c] Adopted November, 1875.

Sec. 28. The governor and all other officers under this constitution shall be subject to impeachment for any misdemeanor in office; but judgment in all such cases shall not be extended further than to removal from office and disqualification to hold any office of profit, honor or trust under this constitution; but the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment and punishment according to law.

Sec. 29. At the general election held in eighteen hundred and seventy-six, and thereafter, members of the house of representatives shall be elected for two years, and members of the senate shall be elected for four years.[a]

Article 3

judicial

Section 1. The judicial power of this state shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such other courts inferior to the supreme court as may be provided by law; and all courts of record shall have a seal, to be used in the authentication of all process.

Sec. 2. The supreme court shall consist of seven justices, who shall be chosen by the electors of the state. They may sit separately in two divisions, with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division and the concurrence of three shall be necessary to a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all the justices, and the concurrence of four justices shall be necessary to a decision in cases so heard. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in years of these shall be chief justice, and the presiding justice of each division shall be selected from the judges assigned to that division in like manner. The term of office of the justices shall be six years, except as hereinafter provided. The justices in office at the time this amendment takes effect shall hold their offices for the terms for which they were severally elected and until their successors are elected and qualified. As soon as practicable after the second Monday in January, 1901, the governor shall appoint four justices, to hold their offices until the second Monday in January, 1903. At the general election in 1902 there shall be elected five justices, one of whom shall hold his office for two years, one for four years and three for six years. At the general election in 1904 and every six years thereafter two justices shall be elected. At the general election in 1906 and every six years thereafter two justices shall be elected. At the general election in 1908 and every six years thereafter three justices shall be elected.[b]

Sec. 3. The supreme court shall have original jurisdiction in proceedings in *quo warranto*, mandamus and *habeas corpus;* and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government, and such other terms at

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[a]Adopted November, 1875. [b]Adopted November, 1900.

such places as may be provided by law, and its jurisdiction shall be coextensive with the state.

SEC. 4. There shall be appointed, by the justices of the supreme court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

SEC. 5. The state shall be divided into five judicial districts, in each of which there shall be elected, by the electors thereof, a district judge, who shall hold his office for the term of four years. District courts shall be held at such times and places as may be provided by law.

SEC. 6. The district courts shall have such jurisdiction in their respective districts as may be provided by law.

SEC. 7. There shall be elected in each organized county a clerk of the district court, who shall hold his office two years, and whose duties shall be prescribed by law.

SEC. 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors and persons of unsound minds, as may be prescribed by law, and shall have jurisdiction in cases of *habeas corpus*. This court shall consist of one judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall be his own clerk, and shall hold court at such times, and receive for compensation such fees as may be prescribed by law.[b]

SEC. 9. Two justices of the peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of justices of the peace may be increased in any township by law.

SEC. 10. All appeals from probate courts and justices of the peace shall be to the district court.

SEC. 11. All the judicial officers provided for by this article shall be elected at the first election under this constitution, and shall reside in their respective townships, counties or districts during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

SEC. 12. All judicial officers shall hold their offices until their successors shall have qualified.

SEC. 13. The justices of the supreme court and judges of the district courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office; provided, such compensation shall not be less than fifteen hundred dollars to each justice or judge each year, and such justices or judges shall receive no fees or per-

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[b] The legislature of 1905 has authorized the submission of the following as a substitute for section 8, which will be voted on in November, 1906:

"SEC. 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law, and shall have jurisdiction in cases of *habeas corpus*. The court shall consist of one judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall hold court at such times and receive for compensation such fees or salary as may be prescribed by law. The legislature may provide for the appointment or selection of a probate judge *pro tem.* when the probate judge is unavoidably absent or otherwise unable or disqualified to sit in any case."

quisites, nor hold any other office of profit or trust under the authority of the state, or the United States, during the term of office for which said justices and judges shall be elected, nor practice law in any of the courts in the state during their continuance in office.

SEC. 14. Provision may be made by law for the increase of the number of judicial districts whenever two-thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any judge.

SEC. 15. Justices of the supreme court and judges of the district courts may be removed from office by resolution of both houses, if two-thirds of the members of each house concur; but no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

SEC. 16. The several justices and judges of the courts of record in this state, shall have jurisdiction at chambers as may be provided by law.

SEC. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the state.

SEC. 18. Until otherwise provided by law,[a] the first district shall consist of the counties of Wyandotte, Leavenworth, Jefferson and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Wabaunsee and Shawnee. The fourth district shall consist of the counties of Douglas, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon and Allen. The fifth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckinridge, Morris, Chase, Butler and Hunter.

SEC. 19. New or unorganized counties shall by law be attached for judicial purposes to the most convenient judicial districts.

SEC. 20. Provision shall be made by law for the selection, by the bar, of a *pro tem.* judge of the district court, when the judge is absent or otherwise unable or disqualified to sit in any case.

ARTICLE 4

ELECTIONS

SECTION 1. All elections by the people shall be by ballot, and all elections by the legislature shall be *viva voce.*

SEC. 2. General elections and township elections shall be held biennially on the Tuesday succeeding the first Monday in November in the years bearing even numbers. All county and township officers shall hold their offices for a term of two years and until their successors are qualified; provided, one county commissioner shall be elected from each of three districts, numbered 1, 2, and 3, by the voters of the district, and the legislature shall fix the time of election and the term of office of such commissioners; such election to be at a general election, and no term of office to exceed six years. All officers whose successors would, under the law as it existed at the time of their election,

[a] See Gen. Stat. 1901, art. 3, p. 423.

be elected in an odd-numbered year shall hold office for an additional year and until their successors are qualified. No person shall hold the office of sheriff or county treasurer for more than two consecutive terms.[a]

Article 5

SUFFRAGE

Section 1. Every white[b] male person of twenty-one years and upwards, belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election—shall be deemed a qualified elector:

1st. Citizens of the United States.

2d. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

Sec. 2. No person under guardianship, *non compos mentis*, or insane; no person convicted of felony, unless restored to civil rights; no person who has been dishonorably discharged from the service of the United States, unless reinstated; no person guilty of defrauding the government of the United States, or any of the states thereof; no person guilty of giving or receiving a bribe, or offering to give or receive a bribe; and no person who has ever voluntarily borne arms against the government of the United States, or in any manner voluntarily aided or abetted in the attempted overthrow of said government, except all persons who have been honorably discharged from the military service of the United States since the 1st day of April, A. D. 1861, provided that they have served one year or more therein, shall be qualified to vote or hold office in this state, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the legislature.[c]

Sec. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas, nor while a student of any seminary of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison; and the legislature may make provision for taking the votes of electors who may be absent from their townships or wards, in the volunteer military service of the United States, or the militia service of this state; but nothing herein contained shall be deemed to allow any soldier, seaman or marine in the regular army or navy of the United States the right to vote.[d]

Sec. 4. The legislature shall pass such laws as may be necessary for ascertaining by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

Sec. 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge,

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[a] Adopted November, 1902.

[b] See fifteenth amendment to constitution of the United States.

[c] Adopted November, 1867.

[d] Adopted November, 1864.

or shall go out of the state to fight a duel, shall be ineligible to any office of trust or profit.

Sec. 6. Every person who shall have given or offered a bribe to procure his election, shall be disqualified from holding office during the term for which he may have been elected.

Sec. 7. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony or breach of the peace.

Article 6

EDUCATION

Section 1. The state superintendent of public instruction shall have the general supervision of the common school funds and educational interests of the state, and perform such other duties as may be prescribed by law. A superintendent of public instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

Sec. 2. The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate and university departments.

Sec. 3. The proceeds of all lands that have been or may be granted by the United States to the state for the support of schools, and the five hundred thousand acres of land granted to the new states under an act of Congress distributing the proceeds of public lands among the several states of the Union, approved September 4, A. D. 1841, and all estates of persons dying without heir or will, and such per cent, as may be granted by Congress on the sale of lands in this state, shall be the common property of the state, and shall be a perpetual school fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

Sec. 4. The income of the state school funds shall be disbursed annually, by order of the state superintendent, to the several county treasurers, and thence to the treasurers of the several school districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years; provided, that no school district, in which a common school has not been maintained at least three months in each year, shall be entitled to receive any portion of such funds.

Sec. 5. The school-lands shall not be sold, unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years, not exceeding twenty-five, at a rate established by law.

Sec. 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker-up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which the money is paid or fines collected, to the support of common schools.

SEC. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature, and the arts and sciences, including a normal and an agricultural department. All funds arising from the sale or rents of lands granted by the United States to the state for the support of a State University, and all other grants, donations or bequests, either by the state or by individuals, for such purpose, shall remain a perpetual fund, to be called the "University fund," the interest of which shall be appropriated to the support of the State University.

SEC. 8. No religious sect or sects shall ever control any part of the common-school or University funds of the state.

SEC. 9. The state superintendent of public instruction, secretary of state and attorney-general shall constitute a board of commissioners, for the management and investment of the school funds. Any two of said commissioners shall be a quorum.

ARTICLE 7

PUBLIC INSTITUTIONS

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor the question shall be taken in yeas and nays, and entered upon the journal.

SEC. 2. A penitentiary shall be established, the directors of which shall be appointed, or elected, as prescribed by law.

SEC. 3. The governor shall fill any vacancy that may occur in the offices aforesaid until the next session of the legislature, and until a successor to his appointee shall be confirmed and qualified.

SEC. 4. The respective counties of the state shall provide, as may be prescribed by law, for those inhabitants who by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE 8

MILITIA

SECTION 1. The militia shall be composed of all able-bodied male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States or of this state; but all citizens of any religious denomination whatever who from scruples of conscience may be averse to bearing arms shall be exempted thereform upon such conditions as may be prescribed by law.[a]

SEC. 2. The legislature shall provide for organizing, equipping and disciplining the militia in such manner as it shall deem expedient not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed, and commissioned in such manner as may be provided by law.

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[a] Adopted November, 1888.

SEC. 4. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion.

ARTICLE 9

COUNTY AND TOWNSHIP ORGANIZATION

SECTION 1. The legislature shall provide for organizing new counties, locating county-seats, and changing county lines; but no county-seat shall be changed without the consent of a majority of the electors of the county; nor any county organized, nor the lines of any county changed so as to include an area of less than four hundred and thirty-two square miles.

SEC. 2. The legislature shall provide for such county and township officers as may be necessary.

SEC. 3. [Repealed by amended section 2, article 4, adopted November, 1902. See Appendix.]

SEC. 4. [Repealed as above. See Appendix.]

SEC. 5. All county and township officers may be removed from office, in such manner and for such cause, as shall be prescribed by law.

ARTICLE 10

APPORTIONMENT

SECTION 1. In the future apportionments of the state, each organized county shall have at least one representative; and each county shall be divided into as many districts as it has representatives.

SEC. 2. It shall be the duty of the first legislature to make an apportionment, based upon the census ordered by the last legislative assembly of the territory; and a new apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year.

SEC. 3. Until there shall be a new apportionment,[a] the state shall be divided into election districts; and the representatives and senators shall be apportioned among the several districts as follows, viz.:

1st district, Doniphan, 4 representatives, 2 senators.

2d district, Atchison and Brown, 6 representatives, 2 senators.

3d district, Nemaha, Marshall and Washington, 2 representatives, 1 senator.

4th district, Clay, Riley and Pottawatomie, 4 representatives, 1 senator.

5th district, Dickinson, Davis and Wabaunsee, 3 representatives, 1 senator.

6th district, Shawnee, Jackson, and Jefferson, 8 representatives, 2 senators.

7th district, Leavenworth, 9 representatives, 3 senators.

8th district, Douglas, Johnson and Wyandotte, 13 representatives, 4 senators.

9th district, Lykins, Linn and Bourbon, 9 representatives, 3 senators.

10th district, Allen, Anderson and Franklin, 6 representatives, 2 senators.

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[a] See Gen. Stat. 1901, ch. 4, p. 70.

11th district, Woodson and Madison, 2 representatives, 1 senator.
12th district, Coffey, Osage and Breckenridge, 6 representatives, 2 senators.
13th district, Morris, Chase and Butler, 2 representatives, 1 senator.
14th district, Arapahoe, Godfroy, Greenwood, Hunter, Wilson, Dorn and McGee, 1 representative.

Article 11

Finance and Taxation

Section 1. The legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

Sec. 2. The legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description, (without deduction) of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

Sec. 3. The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years.[a]

Sec. 4. No tax shall be levied except in pursuance of a law which shall distinctly state the object of the same, to which object only such tax shall be applied.

Sec. 5. For the purpose of defraying extraordinary expenses and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid.

Sec. 6. No debt shall be contracted by the state except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the state at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding sections of this article.

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[a] Adopted November, 1875.

SEC. 7. The state may borrow money to repel invasion, suppress insurrection, or defend the state in time of war; but the money thus raised, shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

SEC. 8. The state shall never be a party in carrying on any works of internal improvement.

ARTICLE 12

CORPORATIONS

SECTION 1. The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

SEC. 2. Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder; and such other means as shall be provided by law; but such individual liability shall not apply to railroad corporations, nor corporations for religious or charitable purposes.[a]

SEC. 3. The title to all property of religious corporations shall vest in trustees, whose election shall be by the members of such corporations.

SEC. 4. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation.

SEC. 5. Provision shall be made by general law for the organization of cities, towns, and villages; and their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, shall be so restricted as to prevent the abuse of such power.

SEC. 6. The term corporations, as used in this article, shall include all the associations and joint-stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

ARTICLE 13

BANKS AND CURRENCY

SECTION 1. No bank shall be established otherwise than under a general banking law.

SEC. 2. All banking laws shall require as collateral security for the redemption of the circulating notes of any bank organized under their provision, a deposit with the auditor of state of the interest-paying bonds of the several states, or of the United States, at the cash rates of the New York stock exchange, to an amount equal to the amount of circulating notes which such bank shall be authorized to issue, and

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[a] The legislature of 1905 has authorized the submission of the following as a substitute for section 2, which will be voted on in November, 1906:

"SEC. 2. Dues from corporations shall be secured by the individual liability of the stockholders to the amount of stock owned by each stockholder, and such other means as shall be provided by law; but such individual liability shall not apply to railroad corporations nor corporations for religious or charitable purposes."

a cash deposit in its vaults of ten per cent. of such amount of circulating notes; and the auditor shall register and countersign no more circulating bills of any bank than the cash value of such bonds when deposited.

SEC. 3. Whenever the bonds pledged as collateral security for the circulation of any bank shall depreciate in value, the auditor of state shall require additional security, or curtail the circulation of such bank, to such extent as will continue the security unimpaired.

SEC. 4. All circulating notes shall be redeemable in the money of the United States. Holders of such notes shall be entitled, in the case of the insolvency of such banks, to preference of payment over all other creditors.

SEC. 5. The state shall not be a stockholder in any banking institution.

SEC. 6. All banks shall be required to keep offices and officers for the issue and redemption of their circulation, at a convenient place within the state, to be named on the circulating notes issued by such bank.

SEC. 7. No banking institution shall issue circulating notes of a less denomination than one dollar.[a]

SEC. 8. No banking law shall be in force until the same shall have been submitted to a vote of the electors of the state at some general election, and approved by a majority of all the votes cast at such general election.

SEC. 9. Any banking law may be amended or repealed.

ARTICLE 14

AMENDMENTS

SECTION 1. Propositions for the amendment of this constitution may be made by either branch of the legislature; and if two-thirds of all the members elected to each house shall concur therein, such proposed amendments together with the yeas and nays shall be entered on the journal; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the state where a newspaper is published, for three months preceding the next election for representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments, at said election, shall adopt the amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise, amend or change this constitution, they shall recommend to the electors to vote at the next election of members to the legislature, for or against a convention; and if a majority of all the electors voting at such election shall have voted for a convention, the legislature shall, at the next session, provide for calling the same.

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[a] Adopted November, 1861.

Article 15

Miscellaneous

Section 1. All officers whose election or appointment is not otherwise provided for, shall be chosen or appointed as may be prescribed by law.

Sec. 2. The tenure of any office not herein provided for may be declared by law; when not so declared such office shall be held during the pleasure of the authority making the appointment, but the legislature shall not create any office the tenure of which shall be longer than four years.

Sec. 3. Lotteries and the sale of lottery tickets are forever prohibited.

Sec. 4. All public printing shall be done by the state printer, who shall be elected by the people at the election held for state officers in November, 1906, and every two years thereafter, at the election held for state officers, and shall hold his office for two years and until his successor shall be elected and qualified.[a]

Sec. 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and the several amounts paid, to whom, and on what account, shall be published, as prescribed by law.

Sec. 6. The legislature shall provide for the protection of the rights of women in acquiring and possessing property, real, personal and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children.

Sec. 7. The legislature may reduce the salaries of officers who shall neglect the performance of any legal duty.

Sec. 8. The temporary seat of government is hereby located at the city of Topeka, county of Shawnee. The first legislature under this constitution shall provide by law for submitting the question of the permanent location of the capital to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location.

Sec. 9. A homestead, to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon; provided, the provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife.

Sec. 10. The manufacture and sale of intoxicating liquors shall be forever prohibited in this state, except for medical, scientific and mechanical purposes.[b]

Schedule

Section 1. That no inconvenience may arise from the change from a territorial government to a permanent state government, it is de-

[a] Adopted November, 1904.

[b] Adopted November, 1880.

clared by this constitution, that all suits, rights, actions, prosecutions, recognizances, contracts, judgments and claims, both as respects individuals and bodies corporate, shall continue as if no change had taken place.

SEC. 2. All fines, penalties and forfeitures, owing to the territory of Kansas, or any county, shall inure to the use of the state or county. All bonds executed to the territory, or any officer thereof in his official capacity, shall pass over to the governor, or other officers of the state or county, and their successors in office, for the use of the state or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary and judges, and all other officers, both civil and military, under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws in force in the territory at the time of the acceptance of this constitution by Congress, not inconsistent with this constitution, shall continue and remain in full force until they expire, or shall be repealed.

SEC. 5. The governor shall use his private seal until a state seal is provided.

SEC. 6. The governor, secretary of state, auditor of state, treasurer of state, attorney-general, and superintendent of public instruction shall keep their respective offices at the seat of government.

SEC. 7. All records, documents, books, papers, moneys and vouchers belonging and pertaining to the several territorial courts and offices and to the several district and county offices, at the date of the admission of this state into the Union, shall be disposed of in such manner as may be prescribed by law.

SEC. 8. All suits, pleas, plaints and other proceedings pending in any court of record, or justice's court, may be prosecuted to final judgment and execution: and all appeals, writ of error, *certiorari*, injunctions, or other proceedings whatever, may progress and be carried on as if this constitution had not been adopted and the legislature shall direct the mode in which such suits, pleas, plaints, prosecutions and other proceedings, and all papers, records, books and documents connected therewith, may be removed to the courts established by this constitution.

SEC. 9. For the purpose of taking the vote of the electors of this territory for the ratification or rejection of this constitution, an election shall be held in the several voting precincts in this territory, on the first Tuesday in October, A. D. 1859.

SEC. 10. Each elector shall express his assent or dissent by voting a written or printed ballot labeled "For the constitution," or "Against the constitution."

SEC. 11. If a majority of all votes cast at such election shall be in favor of the constitution, then there shall be an election held in the several voting precincts on the first Tuesday in December, A. D. 1859, for the election of members of the first legislature, of all state, district and county officers provided for in this constitution, and for a representative in Congress.

SEC. 12. All persons having the qualification of electors, according to the provisions of this constitution, at the date of each of said elections, and who shall have been duly registered according to the pro-

visions of the registry law of this territory, and none others, shall be entitled to vote at each of said elections.

Sec. 13. The persons who may be judges of the several voting precincts of this territory at the date of the respective elections in this schedule provided for, shall be the judges of the respective elections herein provided for.

Sec. 14. The said judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two clerks of election, who shall be sworn by one of said judges faithfully to discharge their duties as such. In the event of a vacancy in the board of judges the same shall be filled by the electors present.

Sec. 15. At each of the elections provided for in this schedule the polls shall be open between the hours of nine and ten o'clock a. m., and close at sunset.

Sec. 16. The tribunals transacting county business of the several counties, shall cause to be furnished to the boards of judges in their respective counties two poll-books for each election hereinbefore provided for, upon which the clerks shall inscribe the name of every person who may vote at the said elections.

Sec. 17. After closing the polls at each of the elections provided for in this schedule, the judges shall proceed to count the votes cast, and designate the persons or objects for which they were cast, and shall make two correct tally-lists of the same.

Sec. 18. Each of the boards of judges shall safely keep one poll-book and tally-list, and the ballots cast at each election; and shall, within ten days after such election, cause the other poll-book and tally-list to be transmitted, by the hands of a sworn officer, to the clerk of the board transacting county business in their respective counties, or to which the county may be attached for municipal purposes.

Sec. 19. The tribunals transacting county business shall assemble at the county-seats of their respective counties on the second Tuesday after each of the elections provided for in this schedule, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the counties attached for municipal purposes. They shall hold in safe-keeping the poll-books and tally-lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the president of this convention, at the city of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

Sec. 20. The governor of the territory, and the president and secretary of the convention shall constitute a Board of State Canvassers, any two of whom shall be a quorum; and who shall, on the fourth Monday after each of the elections provided for in this schedule, assemble at said city of Topeka, and proceed to open and canvass the votes cast at the several precincts in the different counties of the territory and declare the result; and shall immediately issue certificates of election to all persons (if any) thus elected.

Sec. 21. Said Board of State Canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided for in this schedule. Said proclamation shall contain an announcement of the several elections, the qualifications of electors,

the manner of conducting said elections and of making the returns thereof, as in this constitution provided, and shall publish said proclamation in one newspaper in each of the counties of the territory in which a newspaper may be then published.

SEC. 22. The Board of State Canvassers shall provide for the transmission of authenticated copies of the constitution to the president of the United States, the president of the senate and speaker of the house of representatives.

SEC. 23. Upon official information having been by him received of the admission of Kansas into the Union as a state, it shall be the duty of the governor elect under the constitution, to proclaim the same and to convene the legislature and do all things else necessary to the complete and active organization of the state government.

SEC. 24. The first legislature shall have no power to make any changes in county lines.

SEC. 25. At the election to be held for the ratification or rejection of this constitution, each elector shall be permitted to vote on the homestead provision contained in the article on "Miscellaneous," by depositing a ballot inscribed "For the homestead," or "Against the homestead"; and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the constitution.

RESOLUTIONS

Resolved, That the Congress of the United States is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the state forty-five hundred thousand acres of land to aid in the construction of railroads and other internal improvements.

Resolved, That Congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of the Kansas river from its mouth to Fort Riley.

Resolved, That Congress be further requested to pass an act granting all swamp lands within the state for the benefit of common schools.

Resolved, That Congress be further requested to pass an act appropriating five hundred thousand dollars, or in lieu thereof five hundred thousand acres of land, for the payment of the claims awarded to citizens of Kansas by the claim commissioners appointed by the governor and legislature of Kansas under an act of the territorial legislature passed 7th February, 1859.

Resolved, That the legislature shall make provision for the sale or disposal of the lands granted to the state in aid of internal improvements and for other purposes, subject to the same rights of preemption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That it is the desire of the people of Kansas to be admitted into the Union with this constitution.

Resolved, That Congress be further requested to assume the debt of this territory.

Done in convention at Wyandotte, this 29th day of July, A. D. 1859.

[Signed] JAMES M. WINCHELL,
President, and Member from Osage county.

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